

IMPROVING FOR-PROFIT HIGHER EDUCATION: A ROUNDTABLE DISCUSSION OF POLICY SOLUTIONS

HEARING OF THE COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS UNITED STATES SENATE ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

ON

EXAMINING IMPROVING FOR-PROFIT HIGHER EDUCATION, FOCUSING
ON A ROUNDTABLE DISCUSSION OF POLICY SOLUTIONS

JULY 21, 2011

Printed for the use of the Committee on Health, Education, Labor, and Pensions



Available via the World Wide Web: <http://www.gpo.gov/fdsys/>

U.S. GOVERNMENT PRINTING OFFICE

86-757 PDF

WASHINGTON : 2014

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
Fax: (202) 512-2104 Mail: Stop IDCC, Washington, DC 20402-0001

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

TOM HARKIN, Iowa, *Chairman*

BARBARA A. MIKULSKI, Maryland	MICHAEL B. ENZI, Wyoming
JEFF BINGAMAN, New Mexico	LAMAR ALEXANDER, Tennessee
PATTY MURRAY, Washington	RICHARD BURR, North Carolina
BERNARD SANDERS (I), Vermont	JOHNNY ISAKSON, Georgia
ROBERT P. CASEY, JR., Pennsylvania	RAND PAUL, Kentucky
KAY R. HAGAN, North Carolina	ORRIN G. HATCH, Utah
JEFF MERKLEY, Oregon	JOHN MCCAIN, Arizona
AL FRANKEN, Minnesota	PAT ROBERTS, Kansas
MICHAEL F. BENNET, Colorado	LISA MURKOWSKI, Alaska
SHELDON WHITEHOUSE, Rhode Island	MARK KIRK, Illinois
RICHARD BLUMENTHAL, Connecticut	

DANIEL SMITH, *Staff Director*

PAMELA SMITH, *Deputy Staff Director*

FRANK MACCHIAROLA, *Republican Staff Director and Chief Counsel*

C O N T E N T S

STATEMENTS

THURSDAY, JULY 21, 2011

Page

COMMITTEE MEMBERS

Harkin, Hon. Tom, Chairman, Committee on Health, Education, Labor, and Pensions, opening statement	1
Franken, Hon. Al, a U.S. Senator from the State of Minnesota	22
Hagan, Hon. Kay R., a U.S. Senator from the State of North Carolina	26
Blumenthal, Hon. Richard, a U.S. Senator from the State of Connecticut	39

WITNESSES

Cruz, José, Vice President, Higher Education Policy and Practice at the Education Trust, Non-Profit Advocacy Organization, Washington, DC	5
Prepared statement	6
Batson, Hayes, President and CEO, Regency Beauty Institute, Brooklyn Park, NY	9
Prepared statement	11
Hamburger, Daniel, President and CEO, DeVry, Inc., Downers Grove, IL	12
Prepared statement	13
Bob Shireman, California Competes, San Francisco, CA	19
Petraeus, Holly K., Director, Office of Servicemember Affairs, Consumer Financial Protection Bureau, Washington, DC	21
Nassirian, Barmak, Associate Executive Director, American Association of Collegiate Registrars and Admissions Officers, Washington, DC	28
Prepared statement	30
Barr, Michael, Professor, University of Michigan Law School, Ann Arbor, MI	35

ADDITIONAL MATERIAL

Response to question of Senator Enzi José Cruz	66
Response to questions of Senator Merkley by:	
Hayes Batson	66
José Cruz	69
Daniel Hamburger	71
Barmak Nassirian	72
Holly Petraeus	74
Robert Shireman	74
Letter to Senator Harkin from DeVry, Inc.	75

IMPROVING FOR-PROFIT HIGHER EDUCATION: A ROUNDTABLE DISCUSSION OF POLICY SOLUTIONS

THURSDAY, JULY 21, 2011

U.S. SENATE,
COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS,
Washington, DC.

The committee met, pursuant to notice, at 2:04 p.m. in Room 216, Hart Senate Office Building, Hon. Tom Harkin, chairman of the committee, presiding.

Present: Senators Harkin, Hagan, Merkley, Franken, Blumenthal, and Enzi.

OPENING STATEMENT OF SENATOR HARKIN

The CHAIRMAN. Thank you all for being here. The Health, Education, Labor, and Pensions committee will please come to order.

Higher education yields enormous returns, both for students and for our country. That's why, over the past 5 years, Congress has expanded its investment in Pell grants and student loans. Just over a year ago, this committee began to examine for-profit colleges because of the tremendous growth of students and financial aid dollars going to these schools, combined with disturbing reports about whether the schools were providing the promised education.

Higher education faces many challenges in the coming years, including capacity, cost, and accountability. All of America's colleges and universities must adapt to effectively meet the needs of an ever-changing global economy. In this environment, the for-profit sector has an important role to play. But to do so, for-profit education must work for students, not just for shareholders.

Today's hearing will focus on what must be done to protect and get full benefit from the Federal investment in this sector. Before I turn to our distinguished panel, let me briefly outline some of the problems that have been documented by this committee in five hearings, three reports, and thousands of documents reviewed.

As a sector, the for-profit schools enroll about 10 percent of students, yet they receive 25 percent of all Federal aid, about \$30 billion last year, and that number is growing every year, and growing rapidly. The first and most urgent problem that I see is poor student outcomes. For-profit colleges ask their students to borrow a great deal of money to pay high tuition but do not have a really good track record of completion and student loan repayment.

Our committee has documented that the majority of students attending for-profit schools are leaving in less than a year. Unfortu-

nately, this trend is not isolated. Over 1 million students last year attended for-profit schools that have withdrawal rates between 62 percent and 84 percent in their associate degree programs, in their 2-year programs. That means 62 to 84 percent dropped out in the first year.

And because nearly all students borrowed to pay the cost of tuition, those who withdraw do so financially worse off. For-profit students now account for almost half of all the student loan defaults in the country, even though they are only 10 percent of the students in higher education.

These outcomes are clearly unacceptable and they're at the heart of this committee's concerns with this sector's performance. The current regulatory scheme does little to ensure that schools have an incentive to give priority to student services like tutoring, remediation, job placement, services that may help more students to graduate and get jobs and pay back their loans.

We now know that the for-profit schools with the highest withdrawal rates spend enormous amounts on marketing and profit, in some cases more than half of their revenue, with little left over for these kinds of support services. One school employs 8,137 recruiters but has no job placement staff at all. Another school has a ratio of 1,770 student recruiters to one student job placement staffer.

No one, no one underestimates the challenges of educating students who may have struggled in prior educational settings or who have been poorly prepared by the K-12 system. Lack of academic preparation and financial aid are the major barriers to access and success. However, for-profit colleges expressly target their marketing and recruitment efforts at this population of students, students who have struggled in prior settings or who have been poorly prepared by the K-12 system, who may be from an environment where studying was not the norm.

So if a school is going to recruit these students, capture their financial aid, then that school should have an obligation to serve the students' often exceptional academic needs.

Twenty years ago, Senator Sam Nunn chaired a series of hearings focusing on these very same problems. Those hearings led to concrete policy changes that helped to protect students and taxpayers. While some policies have been rolled back or picked apart over the years, several are still on the books.

So here we are today revisiting many of the same issues Congress has been grappling with for decades. And why are we doing this? Because I believe it's our job to both safeguard Federal investments and to help make sure that we have an educated populace, that we have the kind of students that are going to meet the job needs that we have in the future.

At this point, there should be no question about how the for-profit higher education sector differs from other industries. Eighty-six percent of the public companies' revenues come straight from Federal student aid. That's the taxpayers. In some cases, it's 90 percent, or even more.

That's what our job is, to make sure that our taxpayer moneys are well invested and that we have good outcomes for students.

Now I'd like to introduce our distinguished panel of officials and experts, including two leaders from the industry who share an ad-

mirable commitment to improving for-profit education to ensure it is able to meet its promise. I want to note for the record that we reached out to a number of schools to see if they would join us for a constructive public dialogue. This is not a hearing. This is a public dialogue and a roundtable discussion. We asked a number of for-profit schools to join us. Most turned us down. They all turned us down except for the CEOs of DeVry and Regency, institutions that are leaders in two important segments of for-profit higher education leading the way today.

So let me introduce our roundtable participants in no particular order. It's just the way they are here. Maybe it's in the same order that it comes across here.

First I'd like to introduce Michael Barr, currently a professor at University of Michigan Law School and a senior fellow at the Center for American Progress and the Brookings Institution. Mr. Barr is an expert on consumer protection issues and financial regulation and will help lead the discussion on the challenges facing low-income borrowers.

Next is Mr. Hayes Batson, president and CEO of Regency Beauty Institute, headquartered in Brooklyn Park, MN.

It's not near Lake Wobegone, is it, by any chance? Only us from the Midwest know that joke anyway.

Since 2002, Mr. Batson has expanded Regency to a system of over 62 campuses in 16 States. He is here to discuss the challenges the for-profit sector faces and potential solutions based on his leadership role at Regency.

Dr. José Cruz is the vice president for Higher Education Policy and Practice at the Education Trust. Dr. Cruz is a former vice president of the University of Puerto Rico System, where he was responsible for admissions, financial aid, and student life programs. He is here today to talk about the challenges that low-income and minority students face, and solutions Congress should consider to make sure they receive high-quality educational opportunities.

We have Mr. Daniel Hamburger, president and CEO of DeVry, Inc., based in Downers Grove, Illinois. He has played a leadership role at DeVry since 2002, becoming CEO in 2006. Mr. Hamburger is here to discuss how we can work together to maximize student achievement and meet our workforce needs. From reading his testimony last night, he will discuss how we can develop a policy framework that will cultivate graduate success from his perspective as a leader of an international higher education corporation.

We have Mr. Barmak Nassirian, associate executive director of the American Association of Collegiate Registrars and Admissions Officers, an organization he's been with for 20 years. Mr. Nassirian is an expert on the higher education system of accountability known as the "triad"—accreditation, State authorization, and Federal oversight—and is here to help us discuss how Congress should consider to improve the oversight of that triad.

Next we have Mrs. Holly Petraeus, who, as of today, is the director of the Office of Servicemember Affairs at the Consumer Financial Protection Bureau, where she will work to protect military personnel and their families from predatory lending activities. Previously, Mrs. Petraeus served as director of the Better Business Bureau's Military Line program, a partnership with the Depart-

ment of Defense Financial Readiness Campaign. Based on her advocacy for military families, Mrs. Petraeus will offer her unique perspective on for-profit colleges and discuss ways Congress can ensure that military personnel and their families receive high-quality educational opportunities.

And finally we have Mr. Bob Shireman. Mr. Shireman is currently starting a group called California Competes, which will promote public support for higher education. He previously served as deputy undersecretary at the U.S. Department of Education, where he led efforts to reform the Federal student loan system, strengthen consumer protections, and draw attention to college completion. Before joining the Administration, Mr. Shireman held a variety of positions, including the president of the Institute for College Access and Success, a senior fellow at the Aspen Institute, and program director at the James Irvine Foundation. Mr. Shireman will offer his perspective as an expert on higher education costs and financing.

Now, I'd like to begin what I hope will be a spirited, fruitful discussion. I am assured that we will be joined by some Senators later. I just left a caucus in which the White House was present and in which obviously there was a lot of debate and discussion going on the debt ceiling right now. So they will probably be tied up in that for a few more minutes, but they will be here shortly.

I want this to be a roundtable discussion. Some of you had statements prepared. They will be submitted in their entirety to the record.

It's not a formal type of hearing. I'd like to kick it off with some questions, and then we'll go around and discuss things and get perspectives.

I'd like to make two points on the discussion, on the guidelines. If you want to make a statement, respond at length or to give a perspective on what somebody has said, or ask a question, I ask you to take your nameplate and turn it on its edge. That way I'll know it and I'll have my staff keep track, so I can see who did it first, second, third, that kind of thing.

If you have an interjection that you would like to make to what somebody is saying that is very short, a clarification perhaps or something, if you hold up your finger, I will try to interrupt the person who is speaking and go to that person for a very short interjection, not for a long speech. If you want to give something lengthy, do that. If it's a short, wait a minute, I want to ask this or I want to point this out, it's very short, a minute or two, fine. Just give me this, because a lot of times I like that format. I've done this before. Because if you wait, then you lose the dynamic of what was being discussed at that point in time.

Let me start with four questions. First, what constitutes student success? What constitutes student success at a for-profit college, and what does a successful for-profit college look like?

Second, what should students know when they're considering a for-profit school? Is disclosure sufficient?

Third, should we have tougher standards for schools? Who should hold them accountable? Are voluntary standards enough?

Fourth, are there other ways to realign incentives for better performance?

And since I said the key thing for this committee is outcomes, I'm going to start with Mr. Cruz, just to get it going. Our investigation has peeled back the curtain on outcomes in the for-profit sector. First, what are the outcomes that we ought to be concerned about? What should we expect from colleges in terms of performance? What should a high-performing for-profit sector look like?

Let's start talking about this. What constitutes student success? Is it just completion? What is it? What is the outcome?

Mr. Cruz, I started with you because this is your second appearance. You're the only one here who has been here before. And at the time, you leaned upon your background knowing about what students need, especially minority students, low-income, the kind of students I talked about that go to for-profit schools.

What are the outcomes that we ought to be concerned about?

STATEMENT OF JOSÉ CRUZ, VICE PRESIDENT, HIGHER EDUCATION POLICY AND PRACTICE AT THE EDUCATION TRUST, WASHINGTON, DC

Mr. CRUZ. Thank you very much, Mr. Chairman, for the work you have done to unveil the inner workings of the for-profit sector, for convening this panel and giving us the opportunity to weigh in on such an important issue.

As to the question of concerns, what should concern us regarding the for-profit sector and the outcomes of those students, I would say that you stated it very well in your opening statement. We should be concerned about the general state of affairs around for-profit education.

Here's a sector, as you pointed out, that has grown significantly during the past 10 years. It has grown by 236 percent, a sector where 15 publicly traded companies control 60 percent of the student enrollments.

The CHAIRMAN. Fifteen percent—

Mr. CRUZ. Fifteen publicly traded companies that control 60 percent of the enrollments in the sector.

The CHAIRMAN. Did you say 60 or 50?

Mr. CRUZ. Sixty.

The CHAIRMAN. Sixty.

Mr. CRUZ. Six-zero. And a sector and some players within that group that have experienced even higher rates of growth. A case in point, Bridgepoint, Inc., which was recently discussed in one of your hearings, that within a 6-year period accomplished an outstanding 23,000 percent increase in enrollments. And it's also a sector where some of the players are able to generate operating profit margins that exceed those of industry giants like Hewlett Packard and Apple. So those things in and of themselves are good. There's nothing wrong with them, except that in terms of the concerns that we should have, the success of their students does not seem to be as well aligned in terms of generally speaking in the sector to the success of the stockholders of these companies.

So that's the state of affairs today. It is what it is. We need to find ways to move forward, which I think is the purpose of this roundtable today.

What does a successful for-profit sector look like? I would say that a successful for-profit sector is one that embraces the strategic

context in which they're immersed, in which the country is immersed, and it's a strategic context whereby we have determined that economic competitiveness is the name of the game, that we have reached consensus that the only way to be economically competitive is if we once again lead the world in educational attainment, and that in order to do that, the workforce projections facing the United States, we need to take care of the students that have traditionally been underserved, because these are the students that, because of demographic shifts in America, will be able to take us to once again lead the world in educational attainment and continue to be competitive economically.

To the extent that we can create policies that will allow the sector to align the incentives and the projections to the projections and needs of the country, I think that we might be able to get to a place where the for-profit sector is high performing, if you will.

Otherwise, if we can't do that, then I think it's important to remember that public dollars are scarce. And if for-profit education expects us to continue to out-source our higher educational needs to them, they need to demonstrate the particular ability to educate the students that need it the most. If they do so, that's great; and if they don't, then maybe we need to rethink whether or not we are better off investing our scarce funding to strengthen public institutions to provide what ultimately, given our collective aspirations, is a public good.

The concern is the general state of affairs today. A successful for-profit sector is one that embraces the country's needs, as well as their stockholders' needs, and the direction in which we should take policy is one that would look at the trajectory of success for these institutions in terms of the trajectory of success of their students.

The CHAIRMAN. Thank you very much.

[The prepared statement of José Cruz follows:]

PREPARED STATEMENT OF JOSÉ CRUZ

The Education Trust has contributed to the national discussion about for-profit colleges and has closely followed the investigation, led by the U.S. Senate Health, Education, Labor, and Pensions (HELP) Committee, into the sector's professional performance and practices. As a research and advocacy organization that promotes high academic achievement for all students—pre-kindergarten through college—we are deeply troubled by the sector's aggressive and questionable marketing and recruitment practices, low student retention and student outcomes, high cost and student debt burden, and soaring default rates, all of which have been uncovered during these proceedings.

Our November 2010 report, "Subprime Opportunity," examined the graduation rates and debt burdens incurred by students who entrust their futures to for-profit college companies. Our examination revealed that, too often, for-profit institutions enroll students in high-cost degree programs that saddle the most vulnerable ones with more debt than they can reasonably manage to pay off, even if they do manage to graduate.

Our March 2011 Senate testimony before the HELP committee stressed that for-profit college companies demand new attention and a new approach to regulation, that oversight is badly needed for an industry that makes billions from taxpayer subsidies, and that inaction is certainly not an option.

Today, we present a six-element framework to improve for-profit education in America to ensure students get the education that they are promised, and that taxpayers make a worthwhile investment. The framework requires:

1. For-profit colleges, Federal and State regulators, accrediting bodies, and advocacy organizations to embrace the country's **economic competitiveness** as the strategic context in which all higher education sectors operate.

2. Policymakers to address the misguided K–12 and higher education policies and practices that have led to the disparities that gave rise to the current state of for-profit college education.

3. Policymakers and for-profit colleges to level the playing field by eliminating the most toxic academic programs, and by strengthening consumer information and protections.

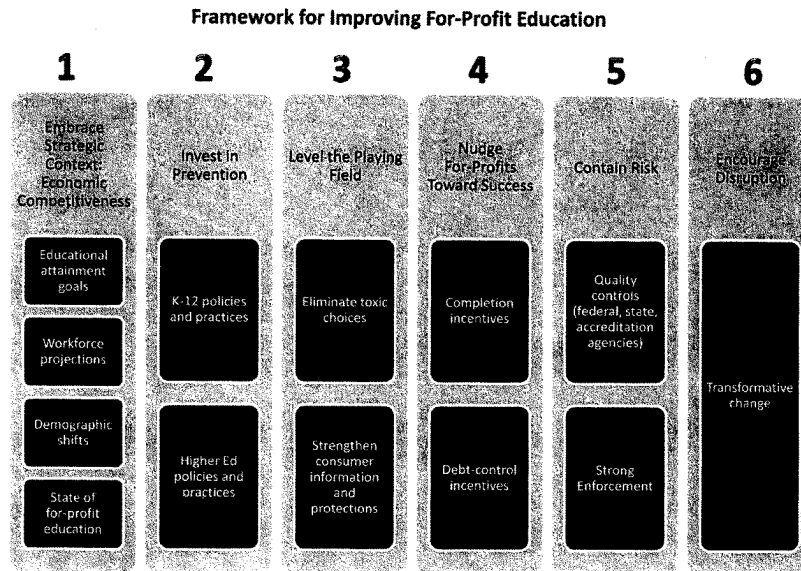
4. Policymakers to incentivize investments in student success and controlling the student debt burden.

5. Policymakers, regulators and accrediting bodies to contain risk by implementing effective quality controls, and by strongly enforcing the corresponding laws and regulations.

6. Policymakers to encourage disruptive innovations in the for-profit college sector—innovations that will transform the dismal student outcomes that currently plague the sector and cause the most harm to the most vulnerable students who, because of demographic shifts, could in fact contribute the most toward our collective aspirations.

We can't meet the workforce demands of tomorrow unless we clean up the for-profit college sector today.

A brief description of the framework is presented below. Details will be provided during the roundtable discussion.



EMBRACE STRATEGIC CONTEXT

Educational Attainment Goals: If we are going to meet the President's goal to be first in the world in college degree completion by 2020, we need all college degree completion by 2020, we need all sectors of higher education to be contributors to degree attainment.

Workforce Projections: Competing in the international economy is more difficult every day. In order to prepare our country for the workforce demands of the future, we must educate our students today. By 2018, 63 percent of jobs will require a postsecondary degree, and 22 million new college degrees will be needed to meet workforce demands. If we continue on our current path, we will have a degree shortfall of 3 million postsecondary credentials. At a time when the world is demanding more of students—higher degrees, more sophisticated knowledge—we cannot expect less of the institutions that seek to educate them.

Demographic Shifts: Low-income students make up 44 percent of the elementary and secondary student population. The more than 49 million students in public schools in 2009 represented a 13 percent increase over the number enrolled in 1994. That enrollment jump is due in large measure to increased numbers of students of

color—African-American student enrollment increased 15 percent, Latino enrollment increased 91 percent and Asian-American enrollment increased 57 percent. On the other hand, there are actually six fewer white students enrolled than in 1994. Given these demographic shifts, we *must* get better at offering equitable educational opportunity to students of all backgrounds.

State of For-Profit Education: For-profit colleges rake in a high level of Federal dollars relative to the number of students they serve. While they enroll only 12 percent of the Nation's college students, they consume 24 percent of all Federal student-loan dollars. And their proportion of loan defaults is even higher: For-profits produce 43 percent of all defaults on Federal loans.

INVEST IN PREVENTION

Address Misguided Policies: Low-income students and students of color are doing their part to advance America's goal to become the best educated country in the world: Some 86 percent of African-American and 80 percent of Hispanic high school seniors plan to attend college. This is remarkable, given that these students are clustered in K-12 schools where the Nation spends less, expects less, teaches them less, and assigns them our least qualified teachers. Unfortunately, traditional institutions of higher education are not responding with the increased levels of access and opportunities for success that these students deserve. This reality, coupled with billions of dollars in Federal subsidies and lax regulations, has created a formidable market for the for-profit college sector—a market whose growth seems impervious to lackluster student outcomes.

The problem is not the “for-profit” nature of these colleges, it is that their returns are a function of sustained failure, rather than student success: failure of the K-12 system to prepare all students for college and career; and failure of public and private nonprofit colleges to provide access and success for low-income students and students of color. Any attempt to improve for-profit education must include a rethinking of the misguided K-12 and higher ed policies that have fueled the sector's growth to a “too-big-to-fail” status.

K-12 Policies and Practices: No Child Left Behind (NCLB) has revealed many uncomfortable truths about our Nation's schools. It has laid bare painful and damaging achievement gaps. It has exposed too much mediocrity. And it made plain that adequate preparation for success beyond high school is not a corollary of meeting the “proficient” level of student performance. As we reauthorize NCLB, we need to raise our sights. That means new and higher standards; new and higher quality assessments; new and better ways to measure teacher impacts on student learning, and new, richer supports for teachers.

Higher Ed Policies and Practices: Poor and working-class students trying to pay for a college education already face a perfect storm: Tuition is skyrocketing, Pell's purchasing power is dropping, and precious financial-aid dollars are shifting away from them and toward more affluent students who would attend college regardless of whether they got financial aid. Currently, public 4-year institutions spend about the same amount in grant aid on low-income students as they do on wealthy ones. As a result, a typical low-income student has to finance an amount equivalent to about 72 percent of his or her family's annual income to attend college. These practices need immediate attention and action: we need cost-saving strategies in our colleges and universities and a redirection of institutional aid toward students who actually need it to attend.

LEVEL THE PLAYING FIELD

Eliminate Toxic Choices: For-profit colleges need to deliver on the promise of opportunity they have made to students and taxpayers alike, earning their profits through innovation in educational delivery, rather than through under-investment in student success. In the absence of strong gainful employment regulations and the spirit of meaningful and sincere reform efforts, for-profit institutions should step up, review their program offerings, and eliminate those that are not serving a workforce need or graduating students with job prospects that will allow them to payback their student loan debt and to sustain their families.

Strengthen Consumer Information and Protections: Design a more complete method to calculate graduation and placement rates and require institutions to publish them in obvious places on their Web sites. What students care about is whether they will graduate and what the difference will be between their pre-enrollment earnings and what they earn postgraduation. This information needs to get into students' hands, not lie buried on a Web site. And it needs to be available in an intuitive and standardized format which allows for comparison among institutions.

Strengthen laws around overly aggressive marketing and advertising—it's hard for students to sift out legitimate information from the excess of ads and marketing material they receive and there is little to no recourse for students that are taken in by misleading advertising. Furthermore, take a close look at how some for-profit colleges offer and manage their own private loans to students. The opportunities for conflicts of interest and perverse incentives are too numerous and too dangerous to ignore.

NUDGE FOR-PROFITS TOWARD SUCCESS

Completion Incentives: Students who leave college without a credential are more likely to be delinquent or default on their loans. Recent research shows that more than half of students who left without a credential became either delinquent or defaulted on their loans. So, we need strategies to incentivize institutions toward student success, and to hold them accountable for that success—both in terms of college completion and loan repayment. And, you could explore risk-sharing models around student borrowing and loan debt so that both students and institutions have some “skin in the game.”

CONTAIN RISKS

Quality Controls: Accreditors and States need to carry their weight. The transfer of accreditation with a change of ownership should be banned. Institutions should not be allowed to offer programs that require specialized accreditation for licensure purposes unless they have the required specialized accreditation. And accrediting bodies should certainly be measuring student success. States simply need to start regulating beyond the absolute minimum, which is what many do today.

Strong Enforcement: It's not enough to put new laws, standards, and regulations in place. The Federal Government, States, and accrediting agencies have to commit to enforcing them as well.

ENCOURAGE DISRUPTION

Transformative Change: At least one major for-profit college company needs to step forward and commit to increasing its success rates and lowering its students' debt levels through a concrete and persuasive goal. A challenge needs to come from within the sector that it's not acceptable to just admit students—institutions must also be committed to the success of each student they admit. Public university systems in the Ed Trust/NASH Access to Success Initiative have set the goal of increasing the number of degrees in their States, and halving access and success gaps for low-income and underrepresented students of color by 2015. These systems also have committed to publicly reporting their progress. Why shouldn't institutions in the for-profit college sector do the same?

The CHAIRMAN. Mr. Batson, what metrics do you use? I've looked at your schools. You have high completion rates. What metrics do you use to measure student success at your colleges? Is it job placement? Is it income earning? What is it? What do you use to measure your success?

STATEMENT OF HAYES BATSON, PRESIDENT AND CEO, REGENCY BEAUTY INSTITUTE, BROOKLYN PARK, MN

Mr. BATSON. If I could, what I'd like to do is provide just a little bit of background.

The CHAIRMAN. Sure.

Mr. BATSON. Because we're somewhat different in that we operate not only as a vocational school, but because we're focused on beauty, we're a clock-hour school rather than a credit-hour school. And what that means is that we're regulated fairly differently by the triad, and in a much more robust way by our States and by the accreditors than many other institutions.

We've learned some things through this interaction with the States and the accreditors that we think have been helpful to us and may be helpful more broadly in higher education.

Our students come to us with many different dreams and goals. If I ask students what they hope to do, the answers range from I want to own my own salon someday to I want to provide a better life for my babies than I had. And so we're all about helping our students achieve their career and their life goals.

The way we do that is by focusing on four things while our students are with us.

First we focus on attendance. We know minute to minute who is there and who is not, and we intervene very quickly if we see attendance starting to diminish because that's one of the biggest issues and the biggest challenge for our students, is just overcoming the life issues, the transportation issues, the health issues, the childcare issues that they need to get to school every day. So we've put a lot of focus there, and I'll talk about that later.

No. 2, we focus on completion. Students come to us because they want a career in the beauty industry. They've known this in most cases since they were little children. I can't tell you how many students—when I've said how did you know you want to get into this—said I did my doll's hair when I was 6 and I knew, or I've been doing my friends' hair for my whole life, or my grandmother asked me to do her hair and I figured out that I was really good at it.

And so in order to achieve that dream, they have to complete. You cannot work in the beauty industry without a license in all 50 States. So if a student drops out of the program, they cannot work in our industry. So we take completion extremely seriously.

The next thing we focus on is licensure. And every State offers either and/or written and practical tests that the students have to pass. And so we're very rigorous about trying to prepare our students for those. We offer mock exams at three different points in our program, which is 1½ academic years, 1 calendar year.

And then finally we focus on placement. So that's the fourth metric.

The CHAIRMAN. What is that?

Mr. BATSON. Placement.

The CHAIRMAN. Placement.

Mr. BATSON. Again, it's very clear, we run short programs. They lead to real jobs, and—

The CHAIRMAN. Do you have placement officers in your school?

Mr. BATSON. We do, we do, and I'd be happy to provide more color on that as we go through the hearing in terms of the kinds of things we do, the amount of support we provide, the number of people involved and so forth.

But those are our big four.

The CHAIRMAN. I'd like to know, if I could, Mr. Batson, the ratio, like how many students you have. You have, what, 60,000 or something?

Mr. BATSON. No. We have between 5,000 and 6,000 students, depending on the time of year.

The CHAIRMAN. OK.

Mr. BATSON. We operate fairly small campuses that are located in major retail areas near where students live and work, and there will typically be 50 to 100 students per campus.

The CHAIRMAN. I see. How many placement officers would you have for that many students?

Mr. BATSON. Let me explain how we do placement.

The CHAIRMAN. OK.

Mr. BATSON. Because we have two different types of people involved in the process. We have student advisors who coordinate the delivery of all services to our students while they're with us, and those folks work with dedicated financing advisors and dedicated career advisors in order to support the students.

The way it works is we have about 24 or 25 of these student advisors, and then we have 9 people who are specifically in career placement. The advisors interface directly and regularly at key milestone points with the students.

The CHAIRMAN. I see.

Mr. BATSON. The career advisors are very, very focused on building relationships with the employer community, getting them in as guest speakers, running salon fairs, signing students up on our free beauty jobs Web site that connects them to the employment community. And so they work hand-in-hand with the advisors to bring the salon community in and connect it with the students.

The way we look at it is we have roughly 25 people in student advising, about 30 to 40 in financial counseling. It helps them with financial aid and any other issues that come up. And then 8 to 10 who are more employer-facing in the organization.

The CHAIRMAN. Very good. Thank you, Mr. Batson.

[The prepared statement of Mr. Batson follows:]

PREPARED STATEMENT OF HAYES BATSON

Good afternoon. I am Hayes Batson, Chairman and CEO of Regency Beauty Institute. Thank you for the opportunity to participate in this roundtable discussion aimed at improving higher education.

Regency is a Minnesota-based vocational education provider focused on cosmetology. We are privately held, were founded more than 50 years ago, and serve 6,000 students through 87 campuses in 20 States.

We differ from traditional educators in several key ways.

- Our programs are offered on a clock-hour basis (rather than credit hour) and lead to State licensure which is required to practice as a cosmetologist in all 50 States.

- States prescribe most major aspects of our programs including length, attendance and time recording, faculty ratios and training requirements, curriculum, and number of practical services by type. In a number of States we track and report this data on a daily or monthly basis.

- Our students learn in a "hands on" manner by practicing services on guests and mannequins in small, salon-like campuses located in major retail areas.

We are accredited by the National Accrediting Commission of Cosmetology Arts and Sciences which monitors many aspects of our educational program and requires us to meet minimum student outcome thresholds in areas such as graduation (50 percent), licensure (60 percent), and placement (70 percent). At a Federal level we are subject to the same laws and regulations that apply to other proprietary higher education institutions participating in title IV.

I am concerned about the sustainability of our current higher education system. There are undoubtedly cases of misinformation and abuse in proprietary schools, and the HELP Committee's work has brought these to light. I believe these issues are addressable through sound policy and enforcement and look forward to working on solutions. In addition, there are major structural issues in higher education around quality, cost and access that must be tackled, and I hope we will have an opportunity to discuss those today. For example, since the economic downturn began in 2008 our student mix has shifted towards independent, Pell eligible students who report more life obstacles and lower incomes prior to entering school. These students

need education to build successful careers and lives, but experience challenges that affect their success rates. We must crack the code to success for these students.

Educational success requires a partnership between the school, the student and the student's parent, spouse, or other supporters. Schools should be accountable to students and taxpayers. We are facing huge Federal deficits, a stagnant economy, and growing pressure to demonstrate a return on our public investment in education. Now is the time to reform our current regulatory system to create a healthy long-term higher education environment for students, taxpayers and quality schools.

There are countless regulations in place today but many are indirect, ineffective or unevenly enforced attempts at ensuring that students get a quality education at a good value. We envision the creation of a new regulatory framework based on: (1) program cost and benefit information—right stuff, right format, right place; (2) verification—internal controls, auditors, accreditors, D Ed; and (3) thresholds for title IV participation—completion, licensure and placement. This framework should replace not supplement the current patchwork of regulation, be applicable to all of higher education within a reasonable timeline, and consider implications on access and success rates of economically disadvantaged students. It could be supplemented with program lending limits that prevent students from over-borrowing in the first place by linking borrowing levels to the typical wages prevailing in the field served by the program.

We recognize that a re-design of the regulatory framework will be difficult and will require all participants in the higher education process to work outside their comfort zones. For our part, we need to be willing to make changes in the way we design and deliver education. However, we believe the collective interests of students, taxpayers and quality schools will be served by taking the steps outlined here, and we are committed to supporting the process going forward. Thank you again for the opportunity to share our views.

The CHAIRMAN. We'll go from a school that is—excuse my expression—narrowly defined—I mean, you have one thing that you teach—to one that's bigger and broader. DeVry is a much bigger school, much broader based. I was thinking about your metrics that you were using, Mr. Batson, attendance, I'm sure, through their completion. Licensure doesn't, I don't think, affects DeVry much, but placement obviously.

Mr. Hamburger, going to a bigger school then, what are your metrics, and how do you look at student outcomes and how they're being reported?

**STATEMENT OF DANIEL HAMBURGER, PRESIDENT AND CEO,
DeVRY, INC., DOWNERS GROVE, IL**

Mr. HAMBURGER. Absolutely. Thank you again, Mr. Chairman, for the opportunity to focus on solutions. They say timing is everything. I think your timing is impeccable. It's a great time to be looking forward to that.

And to your question of what does student success look like, what does a good private sector college look like, it's pretty similar to the answer I'd give what does any good college or university, whether public sector or private sector or independent, look like, and I think it's three things. You've covered some of them already. Hayes has talked about the metrics of outcomes.

So No. 1, is outcomes. And in that, I would highlight five, some that overlap.

First category, do the students learn? So, metrics of learning.

No. 2, do they graduate? Do they complete? So we've talked about that.

No. 3, do they achieve the outcome they set out for, which could be a career objective or admission to a graduate school?

No. 4, licensure. And, yes, we do have programs that lead to licensure; for example, nursing. The Chamberlain College of Nursing we talked about does lead to licensure.

The CHAIRMAN. You have a big nursing school.

Mr. HAMBURGER. Yes, we do. So that's clearly, I think, a relevant metric.

And then No. 5, are they repaying their loans? That's a relevant metric.

Those would be the five outcomes of metrics in category one of what a successful college or university looks like.

Second category, then, would be does the college or university hold to standards of practice? And we've outlined in our written submission a number of standards of practice, from disclosure, and not just disclosure buried somewhere in the Web site but active disclosure where you have to make sure you proactively give the information, even in written form as well as Web site form, to a student; and training and best practices. So that would be the second category.

And then third, I would submit, a successful college or university is one that gives something back. So does it contribute to its community? And one example of that from the DeVry family of schools is the DeVry University Advantage Academy where, for the last 8 years in Chicago and the last 5 or 6 in Columbus, OH, we've run a dual-enrollment early college high school in partnership with the school districts where high school students take high school courses and college courses from DeVry University professors and then complete both a high school diploma and a college associate degree, at no cost. And so I think giving back to the community would be the third category.

The CHAIRMAN. Very good.

[The prepared statement of Mr. Hamburger follows:]

PREPARED STATEMENT OF DANIEL HAMBURGER

On behalf of the students, faculty and administration of the DeVry family of post-secondary institutions including the Carrington Colleges, Chamberlain College of Nursing, Ross University, and DeVry University, thank you for the opportunity to participate in this roundtable discussion focused on how the higher education community can continue to work together to maximize student achievement and economic and global competitiveness.

The time is right for coming together to identify solutions. As we collectively work to address how we all can improve and serve students better, we need to look to the future and focus on the policy framework that will cultivate graduate success. We believe that for the Nation to achieve measurable improvements in student and institutional performance, we must do so collegially with stakeholders across higher education. To that end, we remain at the ready to work toward solutions by developing meaningful metrics and improving accountability and transparency in higher education.

Education is the key to our Nation's economic success. As President Obama noted recently at a Jobs Council meeting,

"We're going to have to up our game when it comes to how we train people for the jobs that actually exist, and design credentialing training programs, apprenticeship programs, so that people know if they complete this work, they are prepared to work at an Intel or GE."

Two companies, I might add, that are in the top five employers of DeVry University graduates over the past 5 years.

Individuals lacking post-secondary educational attainment are at a significant disadvantage in the modern economy. According to Georgetown's Center on Education and the Workforce, in 1973, only 28 percent of U.S. jobs required a college education. By 2008, that number had increased to 59 percent. What this data shows

is a new economy that is less about muscle and more about brains. College education, now more than ever, is critical to the well-being of our workforce and Nation's economic future. Private-sector education is part of that solution; we look forward to DeVry's family of schools continuing to play a critical role in meeting our Nation's future education needs.

ABOUT DEVRY

The DeVry family of institutions has a long history of serving students: DeVry University was founded in 1931 in Chicago and just celebrated its 80th anniversary; Chamberlain College of Nursing was founded in 1889, our Carrington Colleges were founded in 1967 and 1975 respectively, and Ross University Schools of Medicine and Veterinary Medicine in 1978 and 1982 respectively. Our institutions are accredited by regional and national accrediting bodies, including the Higher Learning Commission of the North Central Association of Colleges and Schools (HLC), the Accrediting Commission for Community and Junior Colleges of the Western Association of Schools and Colleges (WASC), and the Accrediting Council for Independent Colleges and Schools (ACICS). In addition, many of our programs are programmatically accredited by specialized accrediting bodies, recognized by the U.S. Department of Education. We have graduated hundreds of thousands of students in programs ranging from medical assisting to family physician. We currently serve over 120,000 degree-seeking students and have alumni and students in every State.

Our commitment to student academic and career success is the superstructure that brings value to our students and the communities that we serve. That commitment is demonstrated in our efforts to continuously improve the quality of institutional programs and services, such as Carrington College's practice of reviewing each student's progress each week on an individual basis. Or DVU's use of student success coaches to monitor and advise students in the early terms of study, recognized by the Pell Institute as a promising practice to support high-risk students. Or our Keller Graduate School's partnership with CareerBuilder to provide personalized career services for its graduates.

Our organizational philosophy can be summed up as, "Quality leads to growth." We stick to that philosophy in everything we do. When we acquired Ross University School of Medicine, one of our first actions was to increase admissions and academic progression standards and cutting our enrollment. We believed that the short-term loss of revenue would bring long-term gains in student outcomes. The same was true in our acquisition of Chamberlain College of Nursing. Chamberlain was a quality nursing college, but small and underfunded. We invested in the college, purchasing state-of-the-art patient simulators and upgrading student support services. Chamberlain students have a 90 percent pass rate on their NCLEX exams, an indicator of quality outcomes.

PRIVATE SECTOR COLLEGES

I point out these successes because it is important to recognize the private sector's strength in issues like capacity, access, innovation, and quality. The private sector has not grown by accident. It has grown to meet a vast unmet need for more education.

When States are cutting enrollments at their public colleges and universities because of State budget issues, private-sector colleges are adding more seats at lower cost to taxpayers—in fact, they pay taxes. At a time when we must educate more non-traditional students to meet our educational attainment goals, many of those students choose private-sector colleges. And when innovative educational models are called for, the private sector helped create online and blended approaches that have transformed how students are educated.

But still, some have asked how private-sector or proprietary institutions are appropriately motivated to provide a *quality* education to our students. Some go further and assert that private-sector colleges simply cannot produce quality academic programs; that their incentives are *de facto* incompatible with serving students. What we know in practice is that a firm commitment to academic quality and student support services produces student success. Like any public-sector or independent college (or any business for that matter), if we serve our students well, they will succeed, they will pass their boards, and hospitals and Fortune 100 companies will hire them. DeVry University is celebrating its 80th anniversary this year because it made those commitments to its students.

Quality academics are the primary focus of any institution of higher education. DeVry uses a multifaceted approach to assist our students and graduates, combining innovative academic methodologies with focused support services.

TECHNOLOGY

DeVry uses innovative technology to improve and maximize student engagement. There are those that have expressed concerns about online learning in this regard. We believe that regardless of delivery modality student engagement is the key. On-site, online and a combination of the two is what it takes to educate all of our students. We were one of the early leaders in the development of “blended learning,” the mix of these two learning modalities. A May 2009 Department of Education meta-analysis of effectiveness studies of online, face-to-face and blended learning concluded that blended learning offers a larger advantage to students than do either 100 percent face-to-face or online courses. We believe our emphasis on a blended approach most effectively meets the needs of our students.

ACADEMIC SUPPORT

Chamberlain College of Nursing’s Center for Academic Success (CAS) provides students with an opportunity to enlist the services of peer and professional tutors for assistance with course content in both nursing and general education courses. Tutors provide resources for academic support, advice on how to study and insight into particular classes and instructors. The Center also holds study sessions covering subjects like chemistry, microbiology, critical care nursing, pharmacology and algebra.

The Center also provides an online tutoring service called SMARTHINKING that provides pre-licensure students with tutoring support in a variety of different subjects. Tutoring resources are accessible 24 hours a day, 7 days a week, so that students can get help whenever it is most convenient. This service also allows students to access archived tutoring sessions for future reference.

STUDENT SUPPORT SERVICES

DeVry University’s Student Central model provides centralized locations staffed with “success teams.” Teams include a student success coach (academic advisor) and a student finance consultant. Students are given course direction to make certain that they are taking the courses they need to graduate along with a means to map out their academic studies from one term to the next. The student finance consultant provides financial literacy tools and guidance to help students navigate the financial aid process, which can be very difficult for students who are the first in their family to go to college.

Students may visit their success coach or consultant at will; additionally, new and first-time college goers receive more intrusive engagement given a general lack of familiarity with the college experience. The success team is also in constant contact with faculty and other academic staff to help coordinate a student’s experience.

If a student needs help, we want to know early and often so they can stay on track. We look at a variety of metrics to see how the student is progressing including persistence rates, credit hour load and student satisfaction. Any one of these indicators can give an early warning that a student may be experiencing difficulty, allowing our success teams to reach out and help.

The Pell Institute recently released a qualitative study on DeVry University’s support services for low-income, first-generation students and said, “What is most promising about these categories is the calculated investment that DeVry University has made to weave together the practices, and how they continue to develop and refine these practices to better support their students . . .”

DeVry University and Chamberlain also offer a service called ASPIRE. ASPIRE is a special program that provides all enrolled students direct and confidential access to counseling professionals who can help them stay focused on their goals during difficult times. This complimentary service is accessible 24 hours a day, 7 days a week, to help address any issues of a personal, family, financial or legal nature affecting students.

CAREER SERVICES

Our goal is that our graduates gain the academic knowledge and workforce skills to launch their careers. The student support and career services process begins the first time we meet a prospective student and goes on even after the student graduates—through lifetime career service guidance.

Keller Graduate School of Management, a part of DeVry University, launched a first-of-its-kind, personalized career services program for its graduate students in conjunction with CareerBuilder, the global leader in human capital solutions. Through the Keller Career Services program, students have access to a dedicated

team of career experts—strategists, writers and coaches—for a high-level, personalized approach to career development.

Eligible Keller students are individually assigned a Career Strategist to mentor them through an intense 90-day career search that encompasses assisting with establishing goals and expectations to customizing a personalized job search strategy. Additionally, these students have access to a certified career coach for mentorship on topics like interviewing techniques, career path planning, networking and workplace etiquette. Additionally, a CareerBuilder professional writer assists Keller students in the creation of career-related materials, such as keyword-rich resumés and cover letters to help Keller students stand out among job applicants.

POTENTIAL SOLUTIONS

Over the course of the past 13 months, the committee has held a number of hearings focused on private-sector education. Throughout the course of the Senate hearings and public debate on the value of private sector provided education, different perspectives have been heard regarding the performance and value of higher educational institutions. Assessments of performance are typically made through one's own proprietary lens and, as a result, have led to vastly different perspectives of performance and value. However, there is common ground among all parties in two areas—the current metrics used to evaluate institutional performance are insufficient, and the opportunity exists to improve institutional programs and services. It is therefore reasonable that we begin seeking solutions on these common grounds, and we propose a policy framework comprising two pillars:

1. Metrics of accountability
2. Standards of best practices

METRICS OF ACCOUNTABILITY

In developing proposed metrics, we suggest the following design principles:

1. The metrics should be easily and clearly understood by educators, policymakers and the public. The number of metrics should be limited in order to minimize the occurrence of “competing” outcomes.
2. Metrics should represent a final outcome as opposed to an interim measurement of performance. For instance, they should measure completion rate instead of retention rate or repayment rate instead of delinquency rate.
3. Metrics should be relevant to the level of education. In general, it is not relevant to apply the same test to a certificate program and a graduate-level program.
4. Metrics should be risk-adjusted to the students schools serve, and should be used to measure results amongst institutions that serve similar populations.
5. Metrics should apply to all institutions: public-sector, private-sector, and independent.
6. Metrics should be used to “flag” questionable performance, facilitating regulators’ enforcement actions.

There are five areas of measurement that are almost universally applicable within higher education:

1. What did students learn;
2. Did students successfully complete their program;
3. Did they achieve the education or career objective which they sought from their education;
4. Did they gain eligibility for their chosen profession; and
5. Are they repaying their student loans?

These are commonly measured and used to gauge performance and progress towards institutional goals. The following discussion illustrates ways in which the design principles can be applied to develop metrics to meet the goals for better transparency and accountability.

WHAT DID STUDENTS LEARN?

Measurement of Learning Outcomes can be taken at both the coursework and program levels. Tests such as the Collegiate Assessment of Academic Proficiency (CAAP), the Collegiate Learning Assessment (CLA) and the ETS Proficiency Profile all seek to measure the development of knowledge and analytical and communication skills across a span of time and coursework. Though imperfect, these tests can be used to reflect the differential amount of learning attained from the 1st through the 4th years of study as well as the overall absolute amount of knowledge gained at an institution as compared to peer institutions or a national standard. Similarly, measurements of analytical, quantitative and verbal abilities are taken with grad-

uate school admissions tests (GMAT, GRE, etc.) and could be applied to program and institutional graduates. Metrics of learning outcomes are used in other settings, including in the United States in K–12 education, and in Brazil in postsecondary. In Brazil, every institution, regardless of public- or private-sector status, is measured by the performance of its graduates on learning assessment exams.

DID STUDENTS SUCCESSFULLY COMPLETE THEIR PROGRAM?

In measuring completion rate, it is important that we compare “apples with apples.” We propose a system whereby all students are counted, and completion metrics are viewed in the context of the student population being served. As referenced above, the predominant metric for completion rates currently omits many students from measurement. For example, the measurement does not count a student who enrolls for 1 year, then transfers with credits to another institution and successfully completes a certificate or degree as a “success” for the initial institution. Likewise, institutional completion rates should be viewed in comparison with other institutions that serve a similar student population, taking into account current Education Department risk factors. Finally, completion measurements could include completion rate for all enrollments (including transfers, part-time and starting dates outside the fall term), on-time completion rates (students completing program within an institutionally defined and disclosed normal period of enrollment) or a progress rate (successful completion of courses attempted within the past year).

DID THEY ACHIEVE THE EDUCATION OR CAREER OBJECTIVE WHICH THEY SOUGHT FROM THEIR EDUCATION?

Metrics that provide an accurate reflection of program graduates’ employment or acceptance to graduate schools are helpful in evaluating institutional quality. In developing employment metrics we can learn from the experience of national accreditors, who for many years have mandated collection of employment outcomes. It is critical that these measurements be applicable to the scope of the program. Whereas a Diagnostic Medical Imaging certificate may be a prerequisite to employment in the field, there are many programs (such as a graduate program in Computer Information Systems) that augment students’ knowledge and skills allowing them to continue and advance in fields in which they are already employed.

DID THEY GAIN ELIGIBILITY FOR THEIR CHOSEN PROFESSION?

For programs in fields where licensure is required, this metric presents a clear, objective measure of institutional accountability. Licensure passage rates are available in programs ranging from cosmetology certificate programs, to nursing, to post-baccalaureate professional programs.

ARE THEY REPAYING THEIR STUDENT LOANS?

Repayment or default rates have been used as a proxy of institutional or program quality. A cohort-based default rate provides greater transparency into the potential impact on individual students, whereas a dollar-weighted default rate provides greater transparency into the taxpayer’s risk with a particular school’s participation in the loan programs. Whereas the use of a default rate is consistent with design principle #2, the Department’s recent development of a loan repayment rate represents an interim measurement and is imprecise in actually measuring borrowers’ status in meeting repayment obligations. Current measurement of cohort default rates is similarly imprecise in that it fails to accurately account for loans whose default is delayed through the use of deferments and forbearances. We propose the development of dollar-weighted, risk-adjusted repayment in conformance with design principle #3 (did students achieve the education or career objective which they sought from their education) to meet our standards for transparency and accountability.

STANDARDS OF BEST PRACTICES

The second area of common ground is the opportunity all institutions have to improve programs and services to students. This opportunity becomes even greater as education opportunity is extended to larger populations to meet future workforce needs and the President’s 2020 goals. The following summarizes the standards and practices which can serve to protect both students and taxpayers.

1. Prospective students should have sufficient information provided to them to make sound decisions regarding their education alternatives and career and financial implications of their decisions.

2. Schools should provide all prospective students with information regarding employment outlook, costs and financing for their programs of study prior to any students' incurrence of a financial obligation. Such information should include:

- a. Accreditation of institution and program, including graduates' qualification for licensure in associated occupations;
- b. Graduation rate of students entering the program;
- c. Employment rate (in field of study) of graduates;
- d. Licensure pass rates of graduates;
- e. Total tuition and fees of the program;
- f. Information from the Bureau of Labor Statistics on outlook of occupations associated with the program of study, including number of new jobs forecasted in these occupations and median earnings associated with those occupations;
- g. Median debt incurred by graduates of the program; and
- h. Cohort default rate of students graduating or withdrawing from the program.

3. To protect students from well-intentioned, but poorly understood decisions, institutions should adopt a trial policy which provides some financial protection for at-risk students. A model for such a policy might provide that:

- a. First-time students (first time in any postsecondary education) may withdraw during the first 14 days of enrollment with a 100 percent refund of tuition and fees and institution-provided room and board. All loan funds will be returned to the lending source. Grant funds will only be retained to cover unpaid costs associated with unreturned books and equipment.
- b. Students repeating failed remedial or developmental coursework will not be assessed tuition for that coursework.

4. Progress reports should be provided at regular intervals to students to enhance their ability to manage their education. A model for such reporting may include:

- a. Progress towards degree or certificate, including number of credits earned to date and remaining number of credits needed to complete the program;
- b. Cumulative grade point average;
- c. Total tuition and fees assessed to date for studies within the current program;
- d. Total debt incurred to date toward studies within the current program, including name and contact information for each loan-holder and the principal amount disbursed from each; and

e. Prospective students should have access to professionally trained staff who will serve them in a knowledgeable and ethical manner. This may include the following:

- i. All recruiting and financial aid staff will be required to complete compliance training at least once per year. Such training may include, but not be limited to, regulatory requirements and restrictions related to:
 - 1. Misrepresentation;
 - 2. Compensation;
 - 3. Institutional eligibility for title IV assistance;
 - 4. Program eligibility for title IV assistance;
 - 5. Student financial assistance eligibility; and
 - 6. Student financial assistance programs, including specifically, requirements and repayment obligations of student lending programs.

5. Institutions of higher education should continually assess their effectiveness. A model for assuring this assessment is captured would provide that:

a. Institutions will collect input from students, alumni and employers to assess the effectiveness of their programs in meeting educational and posteducational objectives.

- i. Students will be, no less than annually, surveyed regarding effectiveness of faculty instruction and institution's support for student success.
- ii. Alumni will be, no less than tri-annually, surveyed regarding the success of the educational program in preparing them for careers in their fields of study.
- iii. Employers will be, no less than tri-annually, surveyed regarding the sufficiency of the preparation and skills of graduates of the institution.
- iv. Survey results will be published and made available to prospective and current students.

6. Ideally, all institutions would voluntarily ascribe to improving these types of practices. Compliance with each can be assured by including these activities in the institution's annual compliance audit requirements for Federal Student Assistance program eligibility. As a publicly held organization, DeVry embraced Sarbanes-Oxley when it was enacted and we believe the time is right for a similar model to be considered in the context of higher education.

CONCLUSION

President Obama recognizes the significant challenges we face, and has set ambitious, yet achievable goals. He said:

“To get there, we have to realize that in today’s global, competitive economy, the best jobs and newest industries will take root in the countries with the most skilled workers, the strongest commitment to research and technology, and the fastest ways to move people, goods, and information. To win the future, America needs to out-educate, out-innovate, and out-build the rest of the world.”

Given the difficult budget choices facing State legislatures, public colleges and universities cannot meet our capacity needs alone. As education researcher Sandy Baum has noted,

“Many for-profit institutions provide students with opportunities not available to them at public colleges. We do need a wide variety of programs and institutions to serve at-risk students if we are going to achieve our goals for increased educational attainment.”

DeVry’s Chairman, Dr. Harold Shapiro, also recognizes this need for a broad spectrum of educational opportunities. He has a unique perspective on higher education, having been president of one of the leading public-sector schools, the University of Michigan, one of the leading independent schools, Princeton University, and now a leading private-sector institution.

He says:

“... one of the strengths of the American system of higher education is its diversity of choice. Public-sector, private-sector, independent universities, community colleges—they all serve different niches in higher education, and there is strength in this variety.”

We have an educational infrastructure second to none: world-leading research universities, liberal arts colleges, a dynamic and far-reaching community college system and a growing and vibrant private sector.

Private-sector institutions are demonstrating the vital role they play by serving a growing percentage of non-traditional students enrolled in higher education—the very students we need in order to reach our college attainment goals.

As Secretary Duncan said at DeVry’s policy forum held in May 2010,

“For-profit institutions play a vital role in training your people and adults for jobs and for-profits will continue to help families secure a better future. They are helping America meet the President’s 2020 goal and helping us meet the growing demand for skills that our public institutions cannot begin to meet alone, especially in these economically challenging times.”

Solutions-oriented discussions are the right start. DeVry looks forward to working together with policymakers and our colleagues in higher education to regain our edge in an increasingly competitive global economy.

The CHAIRMAN. Bob Shireman, let’s stay on this for just a little bit longer. Again, we look at Federal aid, Pell grants come through this committee and on my appropriations committee. I’ve got to find \$11 billion this year to fill the Pell grant gap, \$11 billion. I don’t know where I’m going to find it.

A lot of the Pell grants are going to for-profit schools. We know that. It’s increasing. And again, I wouldn’t mind that, as long as the students are achieving and getting outcomes.

But how do you see this in terms of what’s happening with our Pell grants, and how do we make sure that we’re getting the best use of those dollars? That’s something we grapple with here.

**STATEMENT OF BOB SHIREMAN, CALIFORNIA COMPETES,
SAN FRANCISCO, CA**

Mr. SHIREMAN. Yes, it is something that I have grappled with, and I think some very important steps have already been taken in that regard.

I find that the potential for what for-profit colleges can deliver to be very compelling. And I think back to 2½ years ago when I was on the Obama-Biden transition team and we were meeting

with all kinds of groups, and that included groups of representatives of for-profit colleges. And here we were in the beginnings of the recession, and they were talking about connecting with industry and being innovative, responding to student needs and what industry really needs, and being nimble in terms of being able to be responsive, and those are all of the kinds of things that I think we should look for in all of our colleges, and I think a good case can be made that there's the real potential for that to be faster and better in for-profit colleges.

What we found, unfortunately, was that when we started looking at the numbers, it didn't match up. The reality wasn't close enough to the rhetoric for comfort, and I think that's what you've been seeing now. The need for some kind of indicators to use in regulation.

I think we also need to think about how students think about their options, and this issue of disclosure is really important because while I agree that disclosure is important, there's an issue of timing and context.

Too often, a disclosure is something that happens when a purchase decision has essentially already happened and someone is given a 3-page form, little print, and it says, "oh, one more thing, you have to sign this." And it ends up accomplishing nothing in terms of them really thinking about the purchase that they are making. Really, all it ends up doing is it becomes a document in court later where the school can say, "look, we told them their credits might not transfer."

What we need to think about is how do we get that kind of disclosure happening from a neutral party much earlier in the process, because the information that a student needs is information just when they're starting to think about I maybe want to improve my skills, I maybe want to go back to school, and they need to be thinking about questions like: do I have the time to go full-time; what are my options that are part-time; or do I want it to be a situation where I can meet other people, so it can be a ground campus as opposed to an online campus, and then becoming aware of things like default rates, graduation rates, placement, is licensure an issue for the careers that they might be interested in.

Unfortunately, now when people have these thoughts about college, they go on the Internet, and the next thing you know they're on the phone with someone who is not an advisor. They are a recruiter trying to get someone to sign up for that school, and they'll end up getting that worthless disclosure statement later, trying to figure out how we get human contact with low-income students, veterans, etc, who are beginning to think about I want to figure out what's going to be a good college match for me.

The CHAIRMAN. So you're saying put disclosure more up front.

Mr. SHIREMAN. Put disclosure more up front, but not by the schools. Some other neutral—and I don't know if that's taking our 1-800-FOR-FEDAID phone folks who exist now and——

The CHAIRMAN. No, I've seen different disclosures. I looked at DeVry's disclosure, for example. It's pretty comprehensive. There's a lot of stuff there. I've looked at other schools' disclosures, and there is not much there. And so I got to thinking should there be some kind of comparative, some kind of comparisons somewhere in there? One school has a lot of disclosure, another school has just

a few little things in there and you can't really get through the haze.

Mr. SHIREMAN. Yes, comparison is critical, because you can't know what—is 50 percent good or bad in terms of placement, graduation, etc.

The CHAIRMAN. Mrs. Petraeus, I want to get to you because a couple of years ago, 3 years ago Congress passed the Webb bill, as we call it, which really we all supported because we thought it was a good thing to do, which allowed us to get more Federal aid to military personnel who were active duty, who had served I believe it was 90 days at least in a theater of war, in Iraq or Afghanistan. And so we opened up aid to military personnel, active duty, and their families, which we all thought was a good thing to do. I still think it's a good thing to do.

But what we found was in the intervening couple of years, more and more of the for-profit colleges really going and recruiting military people. If you look at the graph—and I don't have it now, but in our previous hearings I showed it—how much more of the military money now was flowing into the for-profit schools.

Tell me from your experience, do you think military people are getting the kind of disclosures or information they need to make a wise choice on a for-profit school?

STATEMENT OF HOLLY K. PETRAEUS, DIRECTOR, OFFICE OF SERVICEMEMBER AFFAIRS, CONSUMER FINANCIAL PROTECTION BUREAU, WASHINGTON, DC

Mrs. PETRAEUS. I will say that I really first became aware of this issue when I read an article about somebody who certainly did not get that disclosure. It was an article in Business Week in January 2010 that said U.S. Marine Corporal James Long knows he's enrolled at Ashford University; he just can't remember what course he's taking.

He was a veteran, a Marine with traumatic brain injury who had been recruited by a recruiter who had come to the Wounded Warrior Battalion at Camp LeJeune, NC, where he was staying during his convalescence and signed him up for classes that obviously he was not capable of taking advantage of.

So I think it's a wonderful benefit that was passed, and certainly there are many military families who are very grateful for the opportunity to transfer those benefits in some cases to their family members. But an unintended consequence of the fact that the 90/10 rule, where the military G.I. bill and tuition assistance benefits are not counted in the 90 percent title IV education funds but in the 10 percent—

The CHAIRMAN. Right.

Mrs. PETRAEUS. It's made them a target for very aggressive recruiting, because for every one G.I. bill or tuition assistance recipient that you can recruit, you can get nine other students in your title IV category. So unfortunately, I think military folks at this point are seen like a dollar sign wearing a uniform for many recruiters in the for-profit model. They're seen as cash that enables them to sell more of their product, and that's unfortunate.

You talked about what constitutes student success, and to me success would be a military student that comes out of it with a de-

gree that they can use for gainful employment to become a productive member of the economy after they obtain that degree. There was a great success story after World War II. That generation of veterans came home, went to college on the G.I. bill, and really became the engine that drove our economy to the success that it achieved, and that's what I would love to see happen today.

Unfortunately, I think the way things are configured right now, folks are being aggressively recruited into programs that are not necessarily ones that are designed for them to succeed. And when they're on active duty with tuition assistance, they do have to do that through an education counselor at their military installation, so they do get some help evaluating programs.

But the G.I. bill, there really isn't that assistance. There's very little comparison shopping to be done, and the Consumer Financial Protection Bureau is all about being able to comparison shop for credit cards, for mortgages, and I say it should be for student loans as well.

There should be an understandable piece of paper where you can look at what does it cost, what are the gainful employment or licensure rates coming out of it, what are the graduation and retention rates, can I transfer my credits, what is the accreditation, is it regional, is it national, will it be accepted. All of those things, I think, are something that, in order for military people to get the most out of this very generous benefit, they should be able to see up front.

The CHAIRMAN. And I know you made this point, but I think it's worth repeating and emphasizing, and that is that once a G.I. has used up their G.I. bill or used up these benefits, they never get them again.

Mrs. PETRAEUS. No. It's done. So if they have squandered them basically on a program that turns out not to be accepted anywhere, not to be transferrable if they didn't finish the degree, basically they've got a whole lot of nothing, and they have to start from scratch and pay for it themselves.

The CHAIRMAN. Thank you.

For the Senator who just showed up, we're having a roundtable discussion. It's not a hearing as such. I want to get people engaged. We just started this.

The first topic that I threw out there was outcomes and how we measure outcomes and what the different schools do to look at the outcomes and what students should know before they sign up.

I've said anybody that wants to interject, put their sign up, and Senator Franken put his sign up.

STATEMENT OF SENATOR FRANKEN

Senator FRANKEN. Thank you, Mr. Chairman. Thank you for having this roundtable.

Mrs. Petraeus, thank you for coming to my office the other day. I was very taken with you and what we talked about, and so I want to follow up with the chairman on this.

This guy who was recruited at Camp LeJeune with TBI, how many recruiters do some of these for-profit colleges have as compared to how many guidance counselors they have at the school itself? What would the ratio be? Would it be a couple of guidance

counselors for every recruiter, maybe 10 guidance counselors for every recruiter, something like that?

Mrs. PETRAEUS. The Chairman named a couple of them that are egregious examples, and I certainly have one, which was 78,000 students, 1,700 recruiters, 1 full-time employee tasked with job placement. That's probably the most egregious.

Senator FRANKEN. So they have 1,700 recruiters, and they have 1 person serving to give career advice?

Mrs. PETRAEUS. Yes.

Senator FRANKEN. OK. That person must be very good, though. [Laughter.]

Mrs. PETRAEUS. I suspect you probably go straight to voicemail with that individual.

Senator FRANKEN. Now, we talked about the 90/10 rule, and that's very important as far as I can tell, and you made the point that since guys on the G.I. bill, on the new G.I. bill count in the 10 instead of the 90, even though the 90 is Federal aid, it seems like the G.I. bill would qualify as Federal aid, and as a result these guys sort of are a walking dollar sign to some of these schools that have a lot of recruiters.

Do you think that changing that rule might be, like, a swell idea? I mean reclassifying our veterans so that they're not a target.

Mrs. PETRAEUS. Certainly I think removing them from that equation could help them not be the focus of this kind of recruiting. I'm not sure what would be the best way to work it, if it would be move them into the 90 percent or just take them out of the equation altogether and just not count the G.I. bill and tuition assistance in that 90/10. I will leave it to legislators and their staffs to figure out what might work the best. But I think as long as they're in that 10 percent, they are going to be aggressively recruited.

Senator FRANKEN. And you talked—and I can open this up a little wider to anyone who cares to jump in because it's a roundtable, or square more, really.

You were talking about veterans who come out and use all of their G.I. bill. But don't they, in fact, often on top of that, get other loans, and aren't they then, in addition to in many cases wasting their G.I. bill and coming out with nothing, but also put in a position where they owe a great deal of money, and that this is money that—and this again is open to everyone—this is a debt that can't be gotten rid of when you go into bankruptcy? This is a debt that you'll take for life, and we've had other witnesses testify on this issue.

And so I'm sitting here as a Senator and I'm thinking, OK, I'm trying to get our debt down. That's a very important part of our job right now, is getting a handle on our deficits and on our national debt. And for me to see these G.I. bills and the Pell grants going to very, very expensive schools that aren't really doing their job—and I thank Mr. Batson for being here because Regency does a great job; and I thank you, Mr. Hamburger, for being here from DeVry.

So I'm seeing both Federal money, as far as I'm concerned, the taxpayers' money being wasted when we're in this tremendous budget difficulty, and then seeing lives really put into difficult straits. And worse than that, seeing veterans, men and women who

have put themselves on the line and see them taken advantage of, and it really makes my blood boil, I must say.

What I kind of want to know is—this doesn't just happen to veterans, it happens to many people—how widespread is this that people go to these for-profit schools? Because we've had testimony, and I suppose you could say, "well, that's just a couple, a few people who that's happened to." How widespread is this, for those who have been studying the industry? How widespread is that, and if it is widespread, what can we do to prevent that, and why don't the DeVrys and the Regencys of this world, the very good actors or the kind of good actors, why don't they get in there and help us and police their own industry—how could they help do that?

The CHAIRMAN. If I might just interject here, Senator Franken, again, this is a roundtable discussion. I just want to make the point that we had invited a number of for-profit schools to come here to join us at this roundtable discussion, and only two acceded to do so, and that's Mr. Hamburger from DeVry and—

Senator FRANKEN. Do you have any names of the ones who didn't show up?

The CHAIRMAN. I don't know. My staff probably—

Senator FRANKEN. You don't have to answer. I mean, it was kind of just a joke to embarrass them. That's not a nice thing to do. That's not very Minnesota, is it, Mr. Batson?

[Laughter.]

It's not a Minnesota nice thing to do.

Let's go back to the—Mr. Cruz seems to have a response.

Mr. CRUZ. Senator Franken, I can speak to the numbers. Students at for-profit colleges are more likely than others to take out loans, significantly more likely. If you look at, for example, students enrolled in 4-year institutions, 94 percent of the students enrolled in for-profits take out Stafford loans, and 46 percent also have to take, in addition to that, private loans in order to meet their financial needs at these schools.

When you look at the rates, the loan rates at private nonprofits and publics, you see that it's between 25 percent and 50 percent lower than those at for-profits.

Senator FRANKEN. What did you say is lower? I'm sorry.

Mr. CRUZ. Sure. If you look, for example, at public institutions, the Stafford loan rates are 42 percent, which is less than half.

Senator FRANKEN. OK. But now I think the for-profit industry will say, and rightly so, that they serve a different population. So those figures aren't necessarily saying anything bad about the for-profit industry. It just, in fact, might say something good, that they're serving people who need their services and who benefit by their services. And the for-profit—I'm sure the great actors in the for-profit industry also have a higher incidence of loans being taken than certainly your public colleges, and maybe your private.

Now, they're more expensive, and then you've got to get to what your default rates are and that sort of thing. But I think—

Mr. CRUZ. If I could just follow up real quickly.

Senator FRANKEN. Yes. I'm sorry.

Mr. CRUZ. When we also look at public and nonprofit institutions that have similar types of students in terms of their selectivity which they're admitting into the school, their academic credentials,

and also look at schools in these sectors that also have similar students from the perspective of socioeconomic, what percentage of their students are low-income and receive Pell grants, we see that in the for-profit sector the graduation rates and the loan default rates, the graduation rates are much lower and the loan default rates are much higher than these other institutions that take similar students.

There seems to be a lot of room for improvement when we talk about this sector as a whole, but I'm sure that my colleagues here can talk about—

Senator FRANKEN. OK. I didn't let you complete your thought, which was spoken to.

The CHAIRMAN. I'm going to ask Senator Hagan, who had her sign up there for some time.

Senator Hagan, if you want to jump in here.

Again, Mr. Batson had a response. Was that to what was just said, Mr. Batson? Go ahead.

Mr. BATSON. It was. Senator Franken asked why schools hadn't stepped forward and been part of the discussion and made a better effort to participate in a way that would strengthen the system over time. And I think one reason is that we just haven't known how to do that. There's been a lot of discourse on a lot of symptoms, and I think we need to start talking about the root causes, and I believe we're beginning to get at that today during the early parts of this discussion.

You asked what constitutes student success, and you heard every panelist who spoke to the topic refer to student outcomes.

The CHAIRMAN. That's right.

Mr. BATSON. And so what we have to do is we have to set the system up so that incentives are aligned for the students, the taxpayers, and the schools around outcomes. And until we do that, we're going to be chasing symptoms.

We live in a world where we've had bright-line outcome requirements from our accreditor around completion, licensure, and placement. We don't target our marketing at any particular students. We take students who come to us. We have an incentive if we're concerned, if we could identify that a student wasn't going to succeed, to not match them in the program, because if we fall below certain completion thresholds, we lose our accreditation.

Everything we do is driven around completion. Everything we think about during the admissions process, everything we think about in terms of designing our curriculum, in terms of designing our advising support, more than any other regulation, it is the completion requirement through our accreditor that drives our business, and it's the No. 1 thing we're focused on here, 3 years into a recession, when there's pressure on our students and pressure on those rates.

When you talk about 90/10, our 90/10 is 80 percent. And so we haven't spent a lot of time focused on 90/10. We're focused on completion. I guess what I would ask is if we—meaning higher education as a whole, not just Regency, not just for-profit—can produce good outcomes, and if there's a way to measure those and report those, do you care how much funding comes from the Federal Gov-

ernment? Or is it really about funding students in schools that get good outcomes?

Senator FRANKEN. It's, of course, the latter. I mean, we care how much. I mean, at a certain point we talk about economies. But my question is, is that you're a good actor. There are other great actors in Minnesota. But what I'm saying is there are bad actors, and that's exactly what we're trying to do with the new gainful employment regulations that we're trying to put in place. We're trying to measure outcome. We're trying to measure outcome. And you take your outcomes seriously because you want to get accreditation.

There are places these kids go to college and they don't have accreditation when they get out. They are told they will, or it's been ignored.

I'm sorry, Senator Hagan, but I just wanted to comment on that, and I'll give up my time.

The CHAIRMAN. Thank you, Senator Franken.

And we'll go to Senator Hagan. Thank you.

STATEMENT OF SENATOR HAGAN

Senator HAGAN. Thank you, Mr. Chairman. I want to thank you for holding this roundtable today and want to thank all of the witnesses who have come here to share your thoughts and your testimony with us.

I also want to thank Mrs. Petraeus for being here. We held a roundtable type discussion at Ft. Bragg several months ago. When I was in the State senate in North Carolina, I was very involved in being sure that we removed predatory lending from our military bases in North Carolina. It was critical. In Mrs. Petraeus' new role, we had a great discussion with the soldiers and the officers and different advocacy organizations on how to help support our service members and their families across the Nation from predatory lending. One of the many topics that did come up was for-profit education.

You know, Mrs. Petraeus, it is my understanding that the Department of Defense, as well as the individual installation managers, manage lists of businesses offering questionable and poor service to military families and members. I'm told that this is called the black list. Several of these black list discussions came up at the forums we held at Ft. Bragg.

Do you know if this list currently includes any educational institutions?

Mrs. PETRAEUS. Not that I've seen. I think what you're referring to is the list put out by what's called the Armed Forces Disciplinary Control Board, and it's a list of businesses that are considered either dangerous or prejudicial to morale, discipline, and so forth. And often it could be something like a bar with drug activity, or it could be and has been, for instance, an auto dealer that's consistently ripping off the troops. It gets put on this list, and when that happens, no service member can go in there without basically getting in serious trouble. So it's effectively putting it off limits.

It is a thought, you know? If there is an educational institution that is consistently doing very questionable practices, for instance possibly lying to recruits, telling them that the entire cost of school will be covered by their G.I. bill and once they get enrolled they

find out that's not the case, which we've certainly heard about, that's one possible avenue that it might be addressed locally by those disciplinary control boards. But those are installation based, and it would just cover that local area.

Senator HAGAN. Thank you. I also think if there is a predatory relationship with wounded warriors and enrolling them in classes, that would certainly, to me, be something that should be looked at in a much more in-depth situation.

Mrs. PETRAEUS. You know, the Department of Defense has something called the DOD Rule on Commercial Solicitation which does not allow folks to come onto installations under the guise of doing financial education and sell financial products. And one possibility also may be to try to control some of the educational solicitation that goes on to be sure that the folks who are on the base trying to recruit students are actually vetted in some way before they come on and do that.

Senator HAGAN. Thank you.

Mr. HAMBURGER, thank you for being here. I understand that your school gets about the fourth highest amount of DOD and VA tuition benefits, and I was just curious what you think of the 90/10 rule and whether or not DOD and VA benefits should be included in that 90 percent.

Mr. HAMBURGER. Thank you, Senator. And specifically we're talking about DeVry University.

Senator HAGAN. Yes.

Mr. HAMBURGER. Which is the largest of the colleges that we have. And just in contrast to some of the things that were said earlier, maybe before you walked in, we're not just a Johnny-come-lately here. DeVry University has been serving the military proudly since World War II. Dr. Herman DeVry was training the military on radar and electronics. We were one of the first schools approved under the G.I. bill after World War II, and of course that's one of the greatest pieces of legislation arguably that we've ever had in this country.

And one of the interesting things is we gave the money to the G.I., and then the G.I. could apply that to any accredited school, not an unaccredited school. For sure, it has to be quality, and I would agree that any college or university, whether they're public sector or private sector or independent, if they came on a base and were lying to students or misrepresenting in any way or doing any of the things that have been mentioned, they should be on that list and they should not be allowed to be on that base.

Senator HAGAN. How about the 90/10 rule?

Mr. HAMBURGER. In terms of the 90/10 rule, when I think of the 90/10 rule, I go back to the purpose for which it was intended. My understanding at least is it was an indication or a proxy for, is this a quality program. And so the thinking, as I understand it, was that a certain percentage of self-pay or of corporate reimbursement, those kinds of things, would sort of be a marker of quality.

One of the things that we talked about here at the beginning part of the roundtable is, as we look toward solutions, we're really looking for markers of outcomes. So if the college has students who learn, who graduate, who are employed or who go on to grad

school, who are licensed in their field, if they are repaying their loan, those are the markers of quality.

So if the college is providing those kinds of outcomes, then it's not as clear to me that the 90/10 rule is as relevant as a quality marker. And the military reimbursement is in many ways analogous to that corporate reimbursement. Many of our students who—and, by the way, military students are very important to us, but they're less than 5 percent of our enrollments. We're not out doing crazy things here. But just as many students, who have come to us from a corporation, have told us is that one of the benefits that was attractive to them in joining that corporation was the corporate reimbursement—

Senator HAGAN. It seems to me that if the public really understood that all of this is literally taxpayer money, then they would feel differently about for-profit institutions. So you disagree on the 90/10?

Mr. HAMBURGER. I'm sorry. Which part of it?

Senator HAGAN. That's fine. I mean, on the 90/10, on the fact that the military should not go into—

Mr. HAMBURGER. It also seems more like that corporate reimbursement category. It's a benefit.

Senator HAGAN. OK.

The CHAIRMAN. I think, Senator Hagan, you've hit on something, and Mrs. Petraeus has also, that we've been looking at closely here. I think you just hit the point. This is all taxpayer money.

Now, the 90/10 rule is in the Higher Education Act, which is under the jurisdiction of this committee. The DOD is not under that jurisdiction, so they've never been subject to the 90/10 rule. I think one of the things that we're looking at is to correlate with the armed services committees, bringing that into that fold. It's all taxpayer dollars. And so why shouldn't it be all the same, treated the same? I think that was the point you were making. Instead, there's this kind of bifurcated type system.

Again, I open it up for anybody that has any views on that at all.

Mr. Nassirian. Thank you.

STATEMENT OF BARMAK NASSIRIAN, ASSOCIATE EXECUTIVE DIRECTOR, AMERICAN ASSOCIATION OF COLLEGIATE REGISTRARS AND ADMISSIONS OFFICERS, WASHINGTON, DC

Mr. NASSIRIAN. Mr. Chairman, thank you. I'll try to be very brief.

On the 90/10, it's important to understand that the basic purpose of 90/10 was to prove market viability. It's not so much a matter of assessing quality but understanding that if somebody is selling a product for which there is only one customer, you really ought to take a second look at the processes by which that customer decides to be the only purchaser of that product.

So when you push 90 cents on the dollar onto the title IV programs, you are already, in my view, in very dicey territory. Why is it that nobody seems to want to reach into their own pockets and put 10 cents on the dollar down?

When you commingle other Federal resources, you now are running the risk of essentially fully funding what purports to be a private sector operation, a private sector college or university, which

kind of reminds me of Dancing with the Stars. It's not really dancing, it's not really stars.

[Laughter.]

It's not really private sector, and it's not really a college or university at that point. You are at this point dealing with what ought to be the subcontractor that is evaluated on terms other than the ability to go out there and pitch.

And part of the problem, by the way, is it would be one thing if the DOD exercised its own separate judgment. It would be one thing if the VA exercised its own separate gatekeeping. But guess what? They all defer to title IV. So, *de facto*, you've created a very powerful incentive now for entities that are already pushing the envelope and are on the verge of losing eligibility for title IV because they're at 90 cents on the dollar to now exert additional effort to go out there and recruit some service members under the active duty tuition assistance programs, or recruit as many veterans as possible, for two reasons now.

One, because their money is green, so that's extra revenues. But additionally, that money becomes a gateway to title IV funding. So in my view, active duty and veterans are actually sort of exposed to extra jeopardy here.

Also I want to make one point here. There is no—because of the title of the hearing at least, from my point of view in terms of what the committee has done, there's really no hostility whatsoever to the profit motive, right? I mean, the profit motive is what makes this country work. This building was built, I hope, by a for-profit builder, the automobiles we drive. We don't want things to be all manufactured by the government, I assume.

But envision this, envision a parallel. Look at our construction industry. Would you rather have building codes and very intrusive inspections and very severe penalties if somebody undersizes the beams in the construction of the building? Or would you rather have the honor system and disclosures? I mean, I'd much rather have a system in which I know there is a very specific framework that buildings don't collapse on people's heads. And you know what? When it comes to higher education, candidly, the for-profit sector, because it's been basically completely unregulated or very ineffectively regulated, is now essentially on the honor system. And guess what? Buildings are collapsing on people's heads every day.

The CHAIRMAN. I think Mr. Hamburger wanted to respond to that.

Mr. HAMBURGER. Yes, just quickly. I like the analogy because those regulations are outcomes driven, does the building fit the purpose for which it was intended, is it safe and so forth? And likewise, if you had a college that was producing students who learned and they graduated and they're employed and they're repaying their loans, and they had 91 percent from Federal funds, versus—isn't it the outcomes that we really care about? And as we work in this roundtable on solutions, that's just our view as we focus on solutions based on outcomes.

Mr. NASSIRIAN. But—

The CHAIRMAN. Go ahead, Mr. Nassirian.

Mr. NASSIRIAN [continuing]. Very briefly, the problem is we have terrible outcomes and a complete lack of oversight. So you've got

to give me one or the other. Either give me good outcomes and tell me “leave me be, I’m doing such a great job”—but that’s not the case.

Mr. HAMBURGER. Outcomes and enforcement. Shut them down. If you don’t get the outcome——

Mr. NASSIRIAN. We need both. But really, when you get into the guts of title IV gatekeeping, I’ll make this statement——

The CHAIRMAN. I’m sorry. Say that again, Mr. Nassirian.

Mr. NASSIRIAN. When you get into the guts of title IV gatekeeping mechanisms, once you really wrap your head around what’s going on here, you really begin to understand, the lunatics are in charge of the asylum. There is nobody empowered by law—this is not a flaw, this is a feature, right? Because they wrote the law. That the stakeholders run the show, and none of the authorities are actually empowered to question horrific outcomes that are going on on a daily basis. I mean, evidence of it is piling up, and yet we seem powerless to do anything because we have these tomes of regulatory language that do nothing.

[The prepared statement of Mr. Nassirian follows:]

PREPARED STATEMENT OF BARMAC NASSIRIAN

SUMMARY—POLICY OPTIONS FOR IMPROVING PROGRAM INTEGRITY

ACCREDITATION

- Impose conflict of interest rules to prevent regulated entities (schools) from controlling their regulators.
- End regulatory arbitrage and forum-shopping.
- Mandate minimal financial and administrative qualifications for accrediting bodies.
- Create financial incentives for accreditors to keep bad actors out.
- Tie accreditation to verifiable outcomes where practicable.
- Require proper due diligence practices by accrediting bodies.
- End practice of buying and selling accreditation.

STATE AUTHORIZATION

- Maintain a minimalist State authorization requirement only for those schools that receive significant amounts of State funding.
- Articulate substantive criteria for State authorization of schools that receive insufficient funding from the State.
- Impose multi-state approval requirements only above a certain threshold of presence in a given State.

FEDERAL CERTIFICATION

- Modify the 90/10 Rule by capping the maximum amount of all title IV, VA, and DOD tuition assistance funds to no more than 85 percent of total revenues. Prevent gaming by excluding from the 15 percent all institutional aid including private label loans facilitated or guaranteed by institutions.
- Track defaulted loans for the life of the loan and update cohort default rates no matter when defaults occur.
- Create risk-sharing for high margin schools and their insiders, and create joint and several liability for defaults that occur in the out-years.
- Tie Federal certification to specific licensure rates where available.
- Weed out deceptive and abusive practices. Stop the proliferation of fake or misleading programs and degrees.
- Hold institutions accountable for the claims and representations they make in their advertising and recruitment efforts.
- Re-examine the elimination of the “50 percent rule” and consider reinstatement.

Chairman Harkin, Ranking Member Enzi, and members of the committee, my name is Barmak Nassirian and I am associate executive director with the American

Association of Collegiate Registrars and Admissions Officers. I appreciate the opportunity to participate in this discussion of institutional eligibility for participation in Federal student aid programs authorized in Title IV of the Higher Education Act of 1965, as amended. The Senate HELP Committee's oversight investigation of the for-profit sector during the past year has demonstrated significant shortcomings and failures in the current Federal gatekeeping framework. I hope that this brief summary of my views on some of the underlying defects in the current title IV institutional eligibility triad system might be useful to the committee in its deliberations about how to improve outcomes for students and the taxpayers.

AACRAO is a non-profit association of more than 2,500 institutions of higher education and some 10,000 campus enrollment services officials. Our members play a central role in protecting and maintaining the academic integrity of their institutions as admissions gatekeepers and as enforcers of the institutional academic policies on the basis of which academic credits and credentials are earned. As key stakeholders on behalf of their own institutions, they also have a systemic interest in the academic integrity of other institutions because they rely on credits and credentials granted by high schools and previously attended colleges and universities.

Over the course of the past decade, our members have become increasingly alarmed by a dramatic rise in the number of diploma mills—from fake “high schools” to phony “doctoral” institutions—and the proliferation of applications based on fraudulent and questionable credentials. The constant battle against ever more sophisticated fraud and abuse now occupies a major aspect of our members’ professional responsibilities.

While the detection of document fraud and identification of outright diploma mills are difficult enough tasks, a third and more systemic threat to academic integrity has emerged in the form of questionable schools that have managed to establish eligibility for participation in Federal student aid as collegiate institutions. These institutions often combine multiple indications of potential trouble, such as high-attrition/low-graduation rates, non-transferability of academic credits to other institutions, low licensure pass-rates for programs in licensed professions, low job-placement rates for their vocational programs, high-debt/low-income characteristics for the vast majority of their students, high default-rates, and very high levels of dependence on Federal dollars. The ability of subpar and often predatory institutions to game the Federal gatekeeping triad (i.e., non-governmental accreditation, State licensure and Federal certification) undermines public support for Federal student aid programs and devalues all academic credentials, even those that have been earned at legitimate institutions.

To successfully establish eligibility for participation in Federal student aid, institutions must be accredited by an accrediting body that is recognized by the U.S. Secretary of Education; they must be licensed by the State(s) in which they operate; and they must be deemed eligible and certified to participate in Federal student aid programs by the Department of Education. While this triad is procedurally difficult, burdensome and expensive to navigate, structural shortcomings in every one of its three layers allow for abusive and fraudulent operations to get through. Given the enormous sums of Federal funding that are available for the taking upon establishing full eligibility, it should come as no surprise that there has been no shortage of investment capital to pay for upfront expenses of breaching the system. Over the course of the past decade, and particularly since 2006, when all limitations on distance education delivery by the for-profit sector were lifted, numerous new “institutions” have cropped up on the Internet and many established institutions have seen enrollment growth figures, along with title IV utilization rates, that are difficult to reconcile with genuine academic quality and even a modest probability of reasonable outcomes for their students or the taxpayers who foot the bills.

ACCREDITATION

In offering the following critique of accreditation as it is currently configured, I should emphasize my own strong commitment to institutional autonomy and the American tradition of political non-interference in the academic affairs of colleges and universities. I certainly agree with those observers who believe that our current practices in accreditation are so abstract, so subjective, so procedural and so self-referential as to border on being substantively meaningless in assuring institutional quality or integrity. Just about the only worse way of doing things would be to adopt governmental recognition as an alternative.

I should also explicitly acknowledge that quality assurance through peer-review has been a historically successful model by which institutions that are truly interested in maintaining high standards can continually improve. The problem we face is that the quality assurance scheme, that once worked magnificently well, has

failed to keep pace with the transformational changes in the industry it is supposed to oversee, and that it is increasingly reduced to a vestigial structure with little relevance or effect.

Conditioning eligibility for Federal funding on accreditation is at the root of most, if not all, of the latter's present shortcomings. Accreditation worked best when it was entirely voluntary and non-governmental. The very act of tying eligibility for Federal financial aid to accreditation created powerful incentives that altered accreditation as it had existed until then. With billions of Federal funding at stake, accreditation has to be able to competently confront well-funded or well-connected operations that only pay lip service to the historical orthodoxies of institutional mission, self-evaluation, and peer review. It does an abysmal job of it today for a number of fairly obvious reasons.

First, accreditation is dominated by the very entities that it is supposed to oversee. Not only is the National Advisory Committee on Institutional Quality and Integrity (NACIQI) disproportionately composed of officials from institutions, accrediting bodies themselves and their association are also dominated by and financially dependent on institutions. Rarely do regulated entities have such overt and overwhelming control of their regulators. A clear legislative solution here would be to require appropriate conflict of interest rules to exclude individuals with fiduciary obligations to or financial interests in any regulated entity from positions or appointments that influence the Federal recognition process. Such individuals should also be legislatively barred from serving as officers or employees of any Secretariaily-recognized accrediting body. Legislation could also mandate broader representation in all tiers of accreditation by other significant stakeholders.

Second, accrediting bodies often have insufficient resources to play the role that they are assigned. Some of the smaller accrediting bodies have budgets so small that they appear to be little more than sham operations. Clearer guidelines on factors of administrative capability and financial responsibility are desperately needed to ensure that accrediting bodies have resources commensurable with the resources of the institutions that they approve and the Federal dollars they put at risk. In addition, rules should require all accreditors to have visible and accessible consumer complaint, fact collection, and due diligence processes, and require institutions to explicitly refer to these processes every time they invoke or advertise their accreditation status.

Third, our current system is biased in favor of erring on the side of granting, rather than denying, accreditation. Accrediting bodies have strong financial, political, and legal incentives to approve even the most questionable applicants. This is a function of the previous two attributes, and it is given additional impetus by the fact that there are no substantive adverse consequences for accreditors with a history of bad judgment. A legislative remedy here would be to impose requirements and liabilities similar to those imposed on auditors of accrediting bodies. The threshold for any liability should be calibrated in a manner that would impose penalties only on accreditors that display systemic poor judgment or a purpose of evasion. Another mechanism to create meaningful consequences for accrediting bodies would be to use cohort default rates much in the same way as they are used for institutions, and previously, lenders and guarantors.

Fourth, Secretariaily-recognized accrediting bodies should be prohibited from engaging in accrediting activities outside the scope of their recognition, particularly with regard to foreign institutions. In our work on diploma mills at AACRAO, we have come across instances of troubling behavior by Secretariaily-recognized accrediting bodies overseas, and have been concerned as well with some Secretariaily-recognized entities' activities vis-à-vis high schools.

Fifth, accrediting standards need to be more explicitly tied to verifiable outcomes where practicable. The abstract and highly subjective review process historically associated with accreditation is laughably inappropriate for some fields. The self-evaluation/peer-review process, for example, would be a far less reliable and more complex measure of the quality of a truck driving school than the percentage of its students who pass the licensure exam. Where direct outcomes measures may not be available, reasonable proxies can often be put in place to ensure program integrity.

Sixth, accrediting standards should be appropriately tied to the incentives, internal structure, and capabilities of the institutions being accredited. Self-evaluation and deference to institutional academic judgment, for example, make perfect sense in settings where tenured faculty are in control of the curriculum through shared governance, but make no sense at all in settings where a group of business-minded executives determine academic policy and hand it to at-will instructors to execute.

Seventh, do away with referencing infinitely variable institutional missions as a significant determinant of a pass-fail accreditation system, and develop a more meaningful classification of institutions to codify judgments about institutional qual-

ity. Our current scheme is, on its face, counter-intuitive because of its grouping of clearly dissimilar institutions together. When confronted by the public's puzzlement at how some of the finest and some of the worst institutions in the land enjoy the same accreditation status—a feature that the latter often trumpet in their advertising—accreditation insiders refer to the uniqueness of institutional missions as central to all judgments about quality. This, in effect, means that we currently assess some 7,000 accredited institutions on a grading scale with 7,000 different grades. A far simpler, more meaningful and more enforceable grading system would be to recognize and explicate a more comprehensible set of possible missions, and create an accreditation system that evaluates institutions on the basis of the classification that they believe best represents them.

Finally, put an end to the current practice of buying and selling accreditation. Changes in ownership or control should trigger a new accreditation application and review.

STATE AUTHORIZATION

The requirement for State authorization is a key component of the title IV gatekeeping triad. The logic behind mandating State approval was partially a function of the fact that, by far, the vast majority of institutions—including private ones—issue degrees through a grant of authority from their respective State governments. Equally as important, States have long been primary providers of consumer protection for their residents, and the State authorization requirement further empowers them to enforce their rules in that capacity.

It should come as no surprise that the States vary tremendously in how actively they have performed this important function. Some States have implemented robust criteria for authorization and licensure, while other States mandate little more than basic incorporation requirements. There clearly are structural shortcomings with the current State authorization mandate.

It is not unreasonable to rely on the States when they have some of their own funds at risk, which they do with all public and many private institutions. But it is important to realize that in too many cases, because the States have none of their own resources at risk, they have no particular financial incentive to engage in meaningful oversight of institutions operating within their borders. Indeed, propping up such institutions solely to keep them operating may become a higher priority for some States than ensuring good outcomes or protecting students, particularly if the students in question happen to be out-of-state students enrolled through distance education. The committee may wish to examine the following policy recommendations to improve the State authorization requirement of the triad.

First, the current minimalist State authorization requirement should be maintained only for institutions that receive significant amounts of State funding. On the theory that in such cases, the State already has a powerful incentive to conduct oversight, Federal law should continue to rely on State approval without additional micro-management. Furthermore, the committee may wish to explore the idea of a State reciprocity arrangement under which institutions receiving significant funding from any State would be allowed to provide distance education in all States without multistate approvals, provided that they don't exceed certain ratios in revenues or enrollments outside their own State.

Second, for those institutions that the States are deemed to have insufficient financial incentives of their own to properly regulate, Federal law could provide several options. The committee may wish to spell out additional substantive requirements for State authorization in legislation for this subset, or it could delegate additional oversight responsibility to the Department of Education. Under either arrangement, this leg of the triad should primarily focus on traditional consumer protection activities to prevent predatory practices and waste, fraud and abuse.

Third, to minimize unnecessary duplication of effort and costs, multistate approvals should only be required for institutions that cross a threshold of presence in each State. Institutions that have already received appropriate approval from one State under any of the provisions discussed above should be required to obtain additional approvals in other States only if they enroll a sufficiently large number of students in those States.

FEDERAL CERTIFICATION AND PROGRAM PARTICIPATION AGREEMENT

Like the other components of the title IV gatekeeping triad, Federal certification and the execution of a program participation agreement involve primarily procedural requirements on institutions. It is fair to describe the current Federal regulatory approach as focusing on the means, but not the ends. There are extensive regulations on administrative capability and financial responsibility, but no concrete

definition of good outcomes for students or the taxpayers. In short, the current Federal framework fails to provide the most basic assurance that institutional interests align with the interests of the students that they enroll or the interests of the taxpayers who finance the system. The committee may wish to explore the following policy recommendations for an altogether new Federal oversight system that ties institutional eligibility to specific protections and outcomes for students and the taxpayers.

First, ensure market viability of participating institutions by restricting inappropriate reliance on Federal funding by schools. A number of key policymakers have, for example, proposed changing the current “90/10 Rule” by limiting the total amount of Federal funds received through title IV, VA educational benefits, and the DOD tuition assistance program to no more than 85 percent of each institution’s total revenues for any given year. The rule should prevent the current gaming of the system by excluding all institutional aid including any private-label loans that have been made or are held by an entity that has had an origination relationship or any business arrangement with the school. Such a change would certainly be appropriate and it would ensure that no institution becomes exclusively dependent on Federal funds.

Second, expand the current definition of cohort default rates to more accurately capture all defaults. It is odd and counterintuitive that defaults that occur outside the official window don’t “count” against the institutions where the loans were disbursed. Just as borrowers and taxpayers are stuck with defaults whenever they occur, schools should likewise have all defaults associated with them counted accurately, no matter when they occur.

Third, vest institutions in good outcomes through meaningful risk-sharing as an intermediate-sanction alternative to simple loss of eligibility. This is particularly necessary for institutions that generate egregiously large margins, because their internal incentives and rewards are tied to quarterly statements, while current Federal metrics for each quarter’s enrollments are measured in years. If management is paid on the basis of last quarter’s financials, in other words, it may be willing to engage in risky behavior with disastrous outcomes that only register 5 years down the road. The committee may wish to explore a mechanism to impose joint and several liability for a portion of actual defaults on institutions and insiders associated with each cohort of borrowers.

Fourth, simplify and rationalize the Federal certification process where possible by linking eligibility to specific outcomes. Specifically, for programs that lead to licensure, programmatic eligibility should certainly be tied to licensure rates.

Fifth, to avoid gaming of the licensure system by schools, the certification process should weed out deceptive and abusive practices by schools offering phony programs that are intended to confuse students. The committee has already heard testimony from a victim who did not realize she would not even be eligible to sit for the licensure exam because of her program’s lack of proper programmatic accreditation. There are numerous examples of misleading and deceptive programs, odd and misleading degrees and major fields, all of which are designed to justify the high costs of such programs by confusing students into thinking that they would get jobs that the programs simply did not prepare them for.

Sixth, the Federal certification process should ensure the veracity of career placement, representations about salaries, and other claims made by institutions in their advertising and recruitment efforts. This committee’s groundbreaking investigation of how institutional recruiters lied to prospective students should not have taken the Department of Education by surprise. Institutions and, more specifically, their management should be held responsible for misrepresentations and deceptive practices. The committee may wish to examine some of the provisions of the Sarbanes-Oxley Act with regard to how upper management may be incentivized to ensure proper organizational behavior.

Finally, it is important to realize that much of the feeding frenzy associated with the new participants in title IV is a direct result of the elimination of the “50 percent” rule in 2006. Prior to the enactment of the Budget Reconciliation Act of 2005, for-profit providers would not be eligible to participate in title IV if more than 50 percent of their enrollments or 50 percent of their courses were entirely distance-based. It was the removal of that provision that created the gold-rush for Federal dollars that the committee has documented. I should emphasize that the issue here is not so much that distance education itself is suspect, but that fraud has always been easier to carry out and harder to detect from afar. The committee may wish to examine the wisdom of the social experiment that Congress embarked on in 2006 when it eliminated this important safeguard for students and taxpayers without any hearings or any evidence for its necessity. In light of the already massive evidence

of abuse and outright fraud, it would not be unreasonable to reinstate some variant of the original rule.

Mr. Chairman, I thank you for your distinguished history of leadership on higher education issues, and stand ready to assist the committee in its efforts to protect students, taxpayers, and the integrity of Federal student aid programs.

The CHAIRMAN. OK. Can I play off of that just one second? Mr. Barr has his hand up, and this is kind of an area of his he might want to weigh in on.

It seems to me that when we looked at the for-profit sector here, and that's what we're talking about today, for-profit schools, in the last several years, have been some of the best performers in the market, on a margin basis, in this country. But their financial success seems divorced from student success. So you can make tremendous profits and have all these students flunking out and leaving.

So in contrast to a typical corporation, the corporation that provides a product or a service, if the product or service doesn't work, the company is going down. But in this case, we see schools that have started up recently, within the last 5 or 6 years, they start with almost nothing and they have many thousands of students now, and their outcomes are terrible, and their dropout rate is 80-some percent in the first year, and yet they keep making more money.

So how do we address this? How do we couple a performance in the marketplace—this is a marketplace for for-profit schools—couple that with whether or not their students are succeeding? Am I making any sense on that?

STATEMENT OF MICHAEL BARR, PROFESSOR, UNIVERSITY OF MICHIGAN LAW SCHOOL, ANN ARBOR, MI

Mr. BARR. Absolutely. The discussion that has preceded this I think indicated that most of the panelists, or perhaps all of the panelists are committed to the idea that there should be metrics that are used to assess success of the schools, and that there should be consequences if the schools fail to meet those metrics. I think those are essential because right now the incentives are only loosely aligned with outcomes for students, and you see that in the figures that you cited.

You see it also, I think, underlying the basic problem in default rates on the private loans. If private loans are generated in order to meet the 90/10 rule, you are going to get outcomes that you don't like to see. You're going to see very, very high default rates because, on net, the incentive facing the firm is to continue to pursue those loans.

I should say, just that, I very much agree with the point that Director Petraeus was making before, that there is something I think particularly horrific about the targeting of military members and their family for this kind of activity, and it's similarly the kind of targeting that we have seen in other aspects of consumer finance, payday lending, refund anticipation lending, auto title lending, subprime mortgage lending, that military members and their family are often particularly vulnerable to those kinds of appeals that can be quite harmful to them, that can be harmful to their families, and can undermine security interests because our military members who get into financial trouble can't pass their security clear-

ances. So it's quite a widespread problem in the consumer finance market.

I think the interesting thing to me, and I'm not a specialist in the education field in this way, the interesting thing to me is those incentives are there already. On top of that, in the context of the 90/10 rule and the way that the military benefits are counted in that rule, you have an additional incentive to go after these kinds of military families in the way that has been described, and to me that's just completely inexcusable to treat our military families in that way.

So I think that ought to be a special area of focus and protection, as it has been elsewhere in consumer finance. It needs to be part of the consumer education facing our troops and their families. But there also need to be disclosures and protections, special protections for those military families who are quite open to that kind of abusive tactic.

The CHAIRMAN. I'll recognize Mr. Batson, and then I'll go to Senator Franken.

Mr. BATSON. I recognize that we're going to discuss ways to align incentives later in the meeting, but I think it's pertinent now, and I'd like to respond to a couple of things that Barmak and Michael raised.

First, Barmak indicated that we don't have a lot of regulation, and I'd like to point out that we actually do have an enormous amount of regulation. Now, I'll acknowledge that much of it is procedural, but it is complicated, it costs money, it takes time, it pulls us off of where we should be focused, which is on student outcomes.

The States dictate every aspect of our program, how many hours, the size of our facility, how many square feet, how we use every hour of that curriculum, how many haircuts a student has to complete before they can get licensed, how many of those haircuts have to be on a human versus a mannequin. I could go on and on and on. In fact, they dictate whether or not we give students breaks, how long they are, whether the breaks can be taken inside or outside of the building, and they have officers that come to the back of the buildings and check to see whether the students are outside, and come inside to see whether they're clocked in or out. That specific example comes from Texas.

So we have an enormous amount of State regulation. We have a significant amount of regulation through our accrediting agency. We submit outcomes every year. Those outcomes are verified. We have a lot of Federal regulation.

We calculate seven different completion rates between our accreditor and the Department of Education. I find it difficult from day to day to tell you what our completion rate is, and I guarantee you, from a consumer's perspective, it's impossible.

So what we have, to build on what Michael raised, is a situation where we don't have a sensible regulatory system that has aligned all the incentives around student success, but we do have an enormous amount of regulation.

And so what we'd like to talk about later in the day is how to introduce a new, better, three-level framework built around disclosures, auditing, and thresholds that aligns the incentive and goes after the root of the problem rather than chasing the symptoms.

Because as we sit here, I know it's very hard for me, it's probably hard for Daniel to respond to all of the different piecemeal parts of this, but I think we have a pretty clear view, and my sense, just from reading Daniel's testimony, is that DeVry has a pretty clear view of how we could have a good system that really is student success focused, and I hope we have a chance to talk more about that later today.

Thank you, Mr. Chairman.

Senator FRANKEN. Well, I think later in the day is here, and I think that we know, we've identified in the hearings that we've heard what many of the problems are. You say that you have regulations from your accreditors. We've had testimony from kids, from students who went to schools that had no accreditation, and they paid a lot of money to go to a course, and then when they finish the course they find out it's not accredited.

So what I want to find out from you is what kind of regulation we should have. Later in the day is here. It's 3:15, 3:20. We're going to 4:00. This is later in the day.

Now, let me ask you specifically about the gainful employment regulations, which seem to be saying are students graduating, are they paying off their loans, are they in default, and what do you think of them, these specific regulations that we're talking about? They seem actually pretty lax to me, and I'll ask Mr. Nassirian, because you nodded, and I like that, when somebody nods at what I say.

[Laughter.]

Mr. NASSIRIAN. Senator Franken, the gainful employment, 430—by the way, my colleague is correct. There is an enormous amount of regulatory language. Sadly, as you point out, it doesn't do anything. That's the challenge. The over-regulation is actually a feature of this system. The regs are there so that the industry can claim to be—why are you picking on us? We're one of the most regulated businesses in the country, except for one thing: We do what we want to do at the end if we have enough smart lawyers and enough consultants.

Apropos gainful employment, 437 pages of contorted language in which the administration essentially backed out of the path that it was embarked on. I have an 11-page transcript I'd be happy to share with you of a publicly traded company CEO's description of how they were realigning their practices essentially to evade the regs. And when you read the logic, you learn the lesson, which is procedural regs are not going to do the trick.

What you want to do is you want to have very meaningful requirements that tie the outcomes for students and the taxpayers to the outcomes for company management and shareholders, and until you do that—and remember, this isn't the act of walking after the product. See, that's easy, because you can assess the product. You're given a physical object.

This is an experience. It's years. It's the out-years that sort of register the outcome. So you want to have a mechanism by which you have some assurances on the front end. But most importantly, that there is essentially a disgorgement of ill-gotten gains post facto if it turns out that the outcomes were not so good for the people who footed the bill.

The CHAIRMAN. Mr. Shireman, I see you have your card up. You want to respond to that?

Mr. SHIREMAN. Thank you. I think that the—I'm pleased to hear today discussion about major incompleteness, aiming for completion, incentives for completion. I see the gainful employment regulations. They were weakened in the face of a lot of opposition. They are a very important first step toward actually having some measures of outcomes of are people repaying their loans, is their debt ridiculous given their earnings after college. Those are the kinds of things that have been coming up today in terms of are people being employed, was the cost reasonable given the kind of employment that they might be getting.

So I think whether it's a matter of strengthening those regulations or looking for or taking those kinds of measures and using them in ways that can provide incentives for colleges to aim for getting students enrolled in programs where they can be successful given their background and interests, and in programs that are likely to lead to getting a job where they can repay their loans if they've taken out loans, those are the right kinds of outcomes to be focused on. The question is not just about figuring out how to eliminate schools but how do we get all of the schools driving toward those kinds of outcomes.

The CHAIRMAN. Can I restate my question from earlier again, throw it out there again? Some of these schools are making tremendous profit margins, tremendous profit margins, even though their performance is very poor. So there's nothing tied in there. I mean, I would say the better your students are performing, the more profits you ought to make. If your students are dropping out, it ought to come down. But you're getting 90 percent, or more in some cases, of your money from the Federal Government, it doesn't make any difference.

Mr. Hamburger.

Mr. HAMBURGER. If I may, and also address Senator Franken's direct question about the time is now. So what are the solutions? And that, of course, is the point of today's roundtable, is to talk about solutions, because we can talk all day long about the problems, and we're all concerned about the problems. But what are the solutions?

So we propose two pillars that we think the solution should rest on, surrounded with enforcement of them. First is metrics of outcomes, and the second are standards of practice. So in terms of metrics of performance, and we've talked—we've all had a lot of time to think about this over the past couple of years, and we've talked with Bob, and we talked with the Gates Foundation, Lumina, and it always seems to come back to these five fundamental metrics.

No. 1, do the students learn? And there's a lot of universities that don't want to measure learning, but we think you should.

No. 2, do the students graduate? Did they complete? And we heard Mr. Batson talk about that.

No. 3, did they achieve the objective they set out? Which could be employment typically is what we're talking about. It could also be admission to graduate school. That might be the educational objective they had.

No. 4, did they achieve licensure for nursing or cosmetology or other programs where there's licensure involved in working in your profession?

Senator Franken, to your point, it is absolutely unacceptable if there's a school that does not give their graduate the opportunity to sit for licensure. That's the specific example you mentioned.

Senator FRANKEN. Well, those schools exist, and there are a lot of them, and they're very successful.

Mr. HAMBURGER. And that is unacceptable. So we completely share the concern, and that should be taken up.

And then No. 5, did they repay their loans?

So those would be the five categories of metrics, and these would be enforced, and we do applaud the additional resources that you've given the Department of Education to enforce the rules.

At the same time, we think that there should be standards of practice. So disclosure, we talked a lot about enhanced disclosure. That's very important, and the right kind of disclosure, and not just a disclosure to decide but aggressive and intrusive disclosure, if you will, so that we know the student got it and they couldn't have missed it.

Standards for training and ensuring continuous improvement for the admissions recruiters, for the financial aid professionals and so forth, and they're all further outlined in my written submission.

So those two pillars of metrics, outcomes metrics and standards of practice, surrounded and backed up with enforcement from the police, the Department of Education, would be our suggested framework for moving forward to solutions.

The CHAIRMAN. Thank you very much.

No one else is jumping in?

Senator Blumenthal.

STATEMENT OF SENATOR BLUMENTHAL

Senator BLUMENTHAL. Thank you. I've read through your suggestions, your specific suggestions in your testimony on best practices and so forth, Mr. Hamburger, and I guess I have two areas of questions.

First to Mrs. Petraeus. Are there specific measures, either standards of accountability or best practices, that you would say should be adapted or framed for members of the armed services or veterans so as to make them more effective for them? Do they have special sorts of areas of need that should be targeted, so to speak? I'm not articulating it well, but obviously they're in different situations. They're more isolated, in a sense. They're coming back to the civilian world or newly in the civilian world, or even possibly suffering from invisible wounds, whether it's post traumatic stress or traumatic brain injury. Obviously, this system has to be adapted to their needs.

So I wonder if you could comment on those rules or metrics that Mr. Hamburger is suggesting with a view to the situation of veterans.

Mrs. PETRAEUS. I think you're right that they do have specific and sometimes unique needs, and I will say that the for-profits were quick to recognize some of that, and part of the reason that a lot of the military signed up for them, especially on active duty,

is because they did provide education online that was easily accessible to military even when they were deployed, and did give them the flexibility to kind of take the classes when they could take them. Before, that was a real barrier for the military, who were trying to take a course at the base where they were assigned, because they could never finish it. They would be sent to the field, they would deploy, and they would just have to give it up. So that is a unique need.

What's interesting, I think, is once they get out of the military, online education probably is not such a good thing for them because I think the veterans, as you said, with special needs, often it's better for them to be on a campus where they actually are interacting with people and they have the chance to have hopefully a student support network there, both among other students and hopefully from someone on the staff as well. And obviously the one college we talked about that only had one support person for 78,000 students, that would not work out.

The metrics again would be the military has a very high rate of dropping out of these classes, signing up and not completing them. For the person who recruits them, as long as they get them through the first week of class and sort of past the point when they can be counted, then there's not that much interest in did they finish. So I think, again, a measure has to be, do they actually finish the coursework, are they able to succeed at it. When they were recruited, was any consideration given to whether or not they could actually do the work?

With somebody with traumatic brain injury, there may be a point when they shouldn't be accepted into a college. A private college, a public college, or a nonprofit, would have more rigorous acceptance standards where they would not sign you up if they thought you couldn't succeed.

So will they get through the coursework? Will they actually achieve that degree? If they move or decide to go elsewhere, will those credits—will they be able to transfer them? Will anybody else accept them?

And then I think the most important thing we can do for the military is really enable them to have a good idea of what they're signing up for and to be able to evaluate it. And right now, we were talking earlier, the Veterans Administration, nobody is really telling them, especially the G.I. bill, giving them a very good assessment of the quality of the programs they're signing up for.

If you look on the VA Web site, it's very minimal. It tells you, yes, you can use your G.I. bill here, and here's sort of the maximum you can use, but there's absolutely no comparison in terms of it costs this much versus another school, and here's the graduation rate, and all the other things. So I think something I would really like to see is much more clarity up front so somebody can compare and see what they're about to spend their precious G.I. bill money on.

Senator BLUMENTHAL. In the military, there is the Transition Assistance Program, the TAP program, which is generally provided on the eve of the return to civilian life, and the military is moving toward providing it again or repeating it, or making it available at points down the road. And maybe what you're suggesting is that

as part of that program some counseling on these educational options would be appropriate.

Mrs. PETRAEUS. I think it could be very helpful, yes. The transition program, they're working hard to make it more effective. It certainly helps if the military person gets engaged before the last minute, when they're about to sign out of the military. But if you give them the opportunity a little bit later to come back and revisit, that might help. I don't know how much of a logistical nightmare that would be since they're no longer really part of the active service. They're a veteran.

The sad truth is I think a lot of them are signing up based on advertisements and word of mouth, and I actually saw something in the *Military Times* newspaper recently which was an insert, a magazine that basically listed the 50 most popular colleges for military. And most popular literally was just based on how many military were enrolled in them. So there was no other measure there. But if they wrap themselves in the flag and they try to say that they cater to the military, they may get picked for that reason without any real serious evaluation of what they can provide.

Senator BLUMENTHAL. To go back to Mr. Hamburger, in your last comment you used a word that I think is very, very important, and that is "enforce." And no matter how good these rules, they have to be enforced vigorously and fairly.

So I would invite comments about how the system should be changed to improve the enforcement of these rules.

Mr. HAMBURGER. Sure, and others may want to comment as well. It looks like they do.

Part of the reason it's so important, and we've all seen the struggle, it's so difficult to come up with a set of metrics that will apply to everything from a certificate in cosmetology to a bachelor's in nursing to a degree in psychology, a postdoctorate degree.

A certain amount of human judgment in the enforcement, I think, allows for the kinds of metrics that we've suggested to be taken in context and to be used as a flag for poor performance and not necessarily as a sort of automated on/off switch. And so the human judgment that comes with enforcement I think can supplement that.

I think the other thing is the enforcement needs to be, in our view, applied across all sectors of higher education. We need to protect students who attend public-sector, private-sector, and independent colleges.

The CHAIRMAN. Mr. Barr.

Mr. BARR. I think that enforcement of these, whatever the rules are, is absolutely critical, and it obviously faces the challenges of budget resources in tough times. But I do think that there are steps that can and ought to be taken that are similar to the kinds of steps that you would expect in any environment in which consumers are potentially put at risk financially.

So the same kinds of steps you would expect for a consumer finance company or for a bank or for a mortgage lender, you can put those in place with respect to at least the financial side of what the schools are doing.

And so in particular, requirements with respect to what the schools themselves can do as the first line of defense. I think that

the kinds of things in particular that Mr. Batson mentioned briefly are really important, compliance, internal compliance, internal controls, internal audits, internal tests of whether procedures are being followed, measures using mystery shoppers, mystery student shoppers to make sure that rules are being followed.

Internal rules about compensation and how recruiters, marketers, or others that interact with students are compensated makes a big difference in how they perform. And I think one of the steps that I know the Department of Education is embarking on, I guess effectively now, is changing the basic structure of compensation for recruitment. I think that's really important as one of the tools here.

But those kinds of internal measures need themselves to be enforced on. So you can't just leave it to the schools to do what they think makes the most sense in terms of enforcement and auditing. There need to be rules about internal controls, and those rules about internal controls need themselves to be supervised and audited and checked.

There's also an additional level, which is what either the Department of Education or the new Consumer Financial Protection Bureau can do to supervise and enforce for compliance with existing rules, for example on the Truth in Lending Act with respect to disclosure, improving disclosure with respect to loans to potential students in this context, making the disclosures better to use for the students.

So we've talked a little bit about the comparability, the comparison issue on the panel. One of the key things is making it so that it's very easy for students to compare across loan products. You can do that using technology, machine readable format for disclosures that could improve significantly on what groundwork has been laid.

So that's all to say that it really is absolutely critical when you're thinking about enforcement to think about it at the level of the firm, the level of incentives, the level of auditing of those incentives, and then at the final level of supervision or enforcement by the Federal Government or State agencies.

Senator BLUMENTHAL. What about using the whistleblower concept, the "qui tam" concept which, in effect, creates private enforcement, in some cases maybe a larger deterrent to wrongdoing?

Mr. BARR. I think whistleblower statutes in general and in this case are an important supplementary tool. They can help highlight individual instances of wrongdoing. But if you really want to get at the heart of what's going on, you need to set up a system that is designed to produce the outcomes you want and then rely on these other mechanisms to supplement that. So I think whistleblowing is really just an adjunct, an additional tool to uncover problems.

Senator BLUMENTHAL. Thank you.

The CHAIRMAN. Mr. Batson.

Mr. BATSON. I'd like to provide just a little bit more context on the framework we envision in order to answer your question about enforcement.

I found it very helpful to understand Mr. Hamburger's framework, and we support much or all of what's in that framework and feel like it's very similar to ours.

What we envision is a three-level framework, and the first is built on disclosures around cost and affordability and potential benefits and returns, and those disclosures include things like total price, student debt, typical debt-to-income ratios. They include information on typical benefits and returns like completion rates, placement rates, licensure pass rates, graduate incomes for fields that the program typically serves.

What we need to do is make sure that schools are measuring and disclosing all of those things not only accurately but on an apples-to-apples basis so that students can compare across schools, public sector, private sector, different types of programs. Somebody might want to compare what the dynamics or returns are on a cosmetology diploma versus a 4-year nursing program. There's no reason why they shouldn't be able to do that.

So we think there is a common set of disclosures. We think we can take all the stuff that we measure and report now and take the best of in a few categories that are really meaningful to students and parents, and put it out there in the right formats and the right places in an understandable way. Then we think we could build on a couple of things we already have in place to ensure the accuracy of that.

We have an auditing process. We have to submit two audits to the Department of Education every year, a financial statement audit and a compliance audit. We think that there ought to be separation between the firms that are performing those two audits. There ought to be certification around the firms that are performing those compliance audits. It's my understanding that you can go get a few hours of training from the Department and go perform a compliance audit, and over the years we've seen unbelievable variation in the quality of those auditors and their ability to detect problems.

We think that from an accreditation perspective there are opportunities to have some basic standards around how you measure outcomes and how you verify those outcomes, and that would give me comfort that we're all operating on a level playing field and that students who are looking at schools are getting accurate information across the board.

Then you've got to figure out what to do when schools misreport that information, what kind of sanctions are there going to be. I think that fundamentally there's three levels there, too. First, there's public disclosure of the errors that are made. So every year we gather this information, we report it. If issues have been found, we flag it. We say last year when the school reported their outcomes, they missed, or they missed badly, use these with caution. If it's a more egregious offense, I think we're talking about fines. If it's a very egregious offense, it could lead to loss of accreditation or loss of title IV eligibility.

So I think there are some very simple ways that we could take the enormous complexity that exists in our system today and boil it down to one page, so to speak, change some of the ways we enforce things, and end up with a much better alignment of incentives between schools, students, and taxpayers, and I'm hearing a lot of ideas in this room about how to do that, and would love to

have a further discussion on that at some point in the future. So, thank you.

The CHAIRMAN. Mr. Batson, let me say that was just about as lucid a response as I've ever heard in any of our meetings.

Mr. BATSON. Thank you, Mr. Chairman.

The CHAIRMAN. Now you're getting to it.

Senator FRANKEN. How long have you been in the Senate?

The CHAIRMAN. That's what I say, that's one of the most lucid responses I've heard in 35 years.

Senator FRANKEN. Thirty-five years.

The CHAIRMAN. Thirty-five.

Senator FRANKEN. OK. Thank you.

[Laughter.]

Mr. BATSON. Thank you, Mr. Chairman.

The CHAIRMAN. Because I had read your testimony last night, and you had given a brief outline, but you didn't go into it in depth like you did here. I look forward to working with you on that, and if you can help us with what you just outlined there and flesh it out a little bit more, I think you have really given us something to think about.

Of course, now I would, again, go over to the other for-profit school here. Yes, go ahead.

Mr. BATSON. Did I earn the right to ask that we ultimately apply it to all of higher ed for the benefit of students and taxpayers?

The CHAIRMAN. Absolutely right. Now, I haven't gotten there yet, but—

Mr. BATSON. Thank you, Mr. Chairman.

The CHAIRMAN [continuing]. Believe me, that's right. These ought to be comparisons across the board.

Senator FRANKEN. Junior highs, too.

The CHAIRMAN. What's that?

Mr. BATSON. Junior highs, too.

The CHAIRMAN. I didn't hear.

Senator FRANKEN. I said junior highs, too. I'm sorry.

The CHAIRMAN. Would you set minimum standards for performance, Mr. Batson? If you don't know right now, think about it.

Mr. BATSON. I really appreciate that, because I think a lot of thought needs to be put into that.

The CHAIRMAN. Yes.

Mr. BATSON. I think we would have to do it in a way that makes sure that we set the quality standards where they need to be, and at the same time minimize any damage to access. When we look at our data, we do have certain student segments that succeed at very different rates statistically. And so I think we have to be very thoughtful in designing a system that does require peak performance, and at the same time acknowledges that if we set the bar too high, we're going to force a lot of people out of the education system.

I think the first step is to get all of this information defined, out there, to really understand where we stand today across higher ed, and then over time I think we have to continue to innovate and to ratchet up standards so that we get better and better and better and get a higher return on our education investment.

The CHAIRMAN. Any observations, thoughts, on what Mr. Batson just said, anybody? We'll start here, right here, and then Mr. Shireman.

Mr. SHIREMAN. This point about some minimum level, some minimum standards is important to consider, because if there is a hard line, it has to be very low. If there's not a hard line, then it's unenforceable. And Mr. Hamburger had an interesting point, which was human judgment.

From my experience at the Department of Education, when there's human judgment involved where a career employee has to make a decision, well, this is beyond the sleazy line in my judgment, inevitably they get overruled either because the lawyers say, you know what, we'll never succeed in court on that, or because the Department folks agree, yes, this is really, really sleazy. They take it, they go to the school and say there's some really questionable stuff going on, and next thing you know a Senator is calling the Secretary of Education and saying one of our schools in my State is being abused, and then the Department of Education backs away.

So it becomes unenforceable if it's not a hard line, but if we have a hard line, it ends up being really low level. So figuring out how to get those incentives to push for the high levels of success, that's going to be a critical part of what we aim for.

The CHAIRMAN. If you had to pick or choose, which would you choose, a hard line at a lower level, or——

Mr. SHIREMAN. I think having a hard line is critical to enforcement——

The CHAIRMAN. But that's lower——

Mr. SHIREMAN [continuing]. And then having something that creates a zone that schools would prefer to stay out of because it doesn't look good. So maybe some of the mystery shopper stuff that we're talking about.

Maybe it's about getting that information out there so that you've got a transcript of a conversation that is kind of questionable, it's something that's available. Students aren't going to see it, but advisors are going to see it. It will get out there among college admissions advisors. The VA will see it. The folks who do State oversight will see it and they'll say, hmm, there's some questionable stuff going on at this school, and it's happening more than once.

I would get more information out there. The Department of Education has emails for everyone who has applied for financial aid. The Department of Education could survey folks about their experience in schools and could make that information available.

The CHAIRMAN. Mr. Barr.

Mr. BARR. Just briefly, I think it doesn't need to be an on/off switch. It doesn't need to be a hard line or a soft line. You can have essentially graduated penalties. So the worse the performance of the school, the more dinged they get in the title IV program, or the more fines they get and so on. And they'll internalize those costs, and they'll try and get better performance.

The CHAIRMAN. Mr. Cruz, and then Mr. Hamburger.

Mr. CRUZ. I'd just like to touch briefly on three issues that have been discussed in these last few minutes: disclosure, accreditation, and minimum standards for performance.

In terms of disclosure, we have heard about the importance of context, the timing of when the students get the disclosures, the clarity and the comparability of those disclosures. I would add another element, which is relevance. The disclosures cannot be ratios and more ratios and so forth. They should be relevant to what the students need to know and want to know. Things like for a student like me, that looks like me, that has this economic, socioeconomic status, that has these family responsibilities, how long is it going to take me to graduate? What is the placement rate? How much can I expect to earn? How much am I going to expect to earn above what I currently earn after you take away the loans and whatnot that I need to incur in order to study?

Those are the issues that need to come through in those disclosures because, as a matter of fact, in a recent conversation with a good colleague, she said the problem is that middle income and upper income students, they get access to information when they want to go to college and further their careers, but low-income students and students of color, what they get access to is infomercials. So we need to find a way to make sure that this information is presented in a way that is relevant to them.

In terms of accreditation, many of the comments by Mr. Batson I totally agree with, but that is what accreditation is supposed to do now, and we know that it's not effective at doing it. So that's another conversation that we need to look into and at a previous hearing we discussed.

In terms of the standards for performance, I think that one way to deal with this notion of the hard lines and the regents and whatnot is to think of the necessity that we have right now to eliminate the most toxic programs. We have to have a hard line as soon as possible to eliminate the programs that should not be in place because of the danger, the clear and present danger that they present to students.

And then with the remaining programs we should look not necessarily at the hard lines but at how they evolve over time, because we know that if this country wants to once again lead the world in educational attainment, we need for-profits, nonprofits, and public institutions to improve over time. They have to do better than they're doing now. So having static standards that say whether or not in a given year you graduated more than 40 or 50 percent of your students is not going to get us there. We have to see if there's a trajectory for success.

If an institution, if DeVry is in this position right now in terms of graduation rates and loan default rates, where are they going to be in 2020? Can they articulate a projection for the American public in the same way that they articulate projections in terms of earnings to their stockholders, projections that we can hold them accountable to?

I think that's an important way that we can think about standards for performance.

And finally, to remember that our colleagues here today from the for-profit sector are very gracious in being here, and I like a lot of what I'm hearing. But the fact is that just yesterday the Association of Public Sector Colleges and Universities filed a lawsuit to not allow enforcement of the gainful employment regulations which, as

we have discussed, are very weak to begin with; and that they also a couple of days earlier appealed a Federal judge's decision upholding two other regulations which bar deception in college recruiting and ban commissions for college recruiters.

So I think that we might be accompanied here today by very good outliers in the for-profit sector, but we have to recognize the difficulty of doing something about what's going on in this area.

Mr. HAMBURGER. I appreciate the tradeoff that Mr. Shireman has outlined about setting a hard rule or you're out. It's tough to set that really high because there are so many exceptions and so many considerations involved in the tradeoff with enforcement. And I think part of the solution is Mr. Barr's suggestion of graduated enforcement. I think there's precedent for that.

Also there's precedent for using human judgment. The Department uses something called the financial responsibility ratio that says the institution, to remain eligible for the student financial aid system, has to show that it's financially viable; including, by the way, the fact that it has to show that it's profitable, which is interesting.

We've asked how does that apply, and the Department has told us they use it as a flag. So if an institution violates the ratio, it's not just an off switch. They actually work with the college or university, give us a plan, show us how you're going to improve and get back to that. And if you can't show us that, yes, we have the right to throw you out, but we can apply human judgment as well. So I think there's precedent for that, although I do appreciate the challenge.

Senator FRANKEN. May I ask—

The CHAIRMAN. Yes.

Senator FRANKEN. It's just a question of Director Petraeus. Mr. Barr noted earlier about some of the financial products that were targeted to members of the armed services and veterans in sort of a predatory way, and Congress did respond in some ways to that. I'm wondering if there's some kind of parallel suggestion that you might have on how Congress can respond to this targeting of service members and veterans in the for-profit college sphere.

Mrs. PETRAEUS. You're right that they did successfully address the issue of payday loans, which was a real scourge around military installations back in the early 2000s, and ultimately ended up in the Talon amendment, which capped payday loans, auto title loans, and tax refund anticipation loans at 36 percent for active duty military and their dependents. That is a success story.

I don't think I'm ready today to recommend any specific measures along those lines, but it's certainly something I'd like to go back and think about and talk with you further.

Senator FRANKEN. Great. Thank you. Thank you very much.

Mr. NASSIRIAN. Senator, may I?

The CHAIRMAN. Yes. I had Mr. Barr, and then I'll go—did you have just an intercession on that one point?

Mr. NASSIRIAN. Yes.

The CHAIRMAN. Go ahead.

Mr. NASSIRIAN. With regard to one specific, concrete step, I participated in DOD's worldwide education conference last year, and one of the most stunning things I noticed was the extent of wining

and dining of military advisors and DOD education advisors by schools. The four restaurants in the lobby of the hotel were basically shut down one evening, one per publicly traded for-profit, and with open bar and open menu.

I think those are some fairly easy conflict of interest rules that ought to be in place because service members should be receiving disinterested advice from their advisors, and advisors should not be influenced by those kinds of behaviors.

Also admission of recruiters on bases, big problem, because they're coming in in the guise of counseling, but it's so clear to anybody who cares to take even a 5-second look that this is essentially recruiting going on.

Mr. BARR. Just to pick up on that same theme, I do think that we've seen in other contexts, in the context of life insurance, of mortgage lending, of payday lending, refund anticipation lending, the same kind of problem of the blurriness of the line between trusted advisor and agent of the financial firm, and I think that that's a difficult one the military needs to address. Director Petraeus' office, working with the DOD, can do a lot on that.

I would also note, I said this quickly in passing but I want to be clear about it, that Congress also responded to this particular problem by making sure that the Consumer Financial Protection Bureau had jurisdiction over private student lending, and that will be I think an important new way in which enforcement occurs with respect to marketing, brokering, sales practices and disclosure. So it is an additional tool that is now available in this realm.

The CHAIRMAN. Anything else?

Senator FRANKEN. Thank you all very much. I, unfortunately, have to leave. Thank you.

Mr. SHIREMAN. Thank you, Senator.

The CHAIRMAN. I have one other thing on outcomes. We covered the first two. I said what constitutes student success, what should students know. We've gone over that, disclosure, and on outcomes, having these hard lines or not. I want to move on to something else.

But before I do, I want to get to one kind of specific in terms of these outcomes. The investigations that we had showed retention rates at well below 50 percent, some even 40 percent or less in some of the large for-profit schools. I checked with the community colleges in Iowa, in my State, and the retention rate was about 60 percent. Some of the for-profits were less than 40 percent.

What should reasonable expectations be for student performance, given that we know that the target for recruiting are low-income and minority students? That's basically the bulk of who is being targeted, recruited. I don't know about targeted, but recruited.

So what should be a reasonable expectation for retention rates for that group? Should it be 60 percent; 50 percent? What should we be happy with; 45 percent? Again, our investigations showed through documents that we got that there was a lot of churning going on, a lot of churning of students, so I don't know.

Mr. Hamburger, take a shot at it.

Mr. HAMBURGER. Since nobody is jumping in on this, maybe I can at least get it started and get some ideas to flow.

When you think about graduation rate, of course, like all these outcome measures, I think it's very important that we look at it in context of the others. We could all have 100 percent graduation rate tomorrow, pass everybody.

The CHAIRMAN. Sure.

Mr. HAMBURGER. But clearly that's not desired, and we would never do that. We will never sacrifice academic quality in order to raise graduation rates.

The CHAIRMAN. Right.

Mr. HAMBURGER. But if you use the system of outcomes that's been described here in a balanced way, there's the idea of a balanced scorecard, if you're familiar with that concept from other industries, if you think about graduation rate with employment or graduate school admission together, then you've set up a balance, because on the one hand I could have very high employment rates. I just don't graduate anybody but the very, very best and I have 100 percent employment. On the other hand, I could have 100 percent graduation rate but I would have very bad employment, right?

So I have the two together, you set up a natural tension and a natural dynamic that encourages improvement over time.

The CHAIRMAN. But so many of these students are dropping out in the first year or so. They're borrowing the money. They get the Pell grants. The school gets the Pell grants. They get the loans, and then the student drops out in the first year.

Mr. HAMBURGER. Well, we know the average, across the country, I think at the 4-year level, is under 50 percent, and that's everybody from Harvard to the least selective school. And at the 2-year school, it's about 20 percent in the community colleges.

The CHAIRMAN. But when I looked at the community colleges in Iowa, they said their retention rate was about 60 percent. So they've got 40 percent dropping out in the first 2 years.

Mr. HAMBURGER. Oh, I'm sorry. OK. You were talking about retention. I was talking about graduation rate.

The CHAIRMAN. No, I'm just talking about retention.

Mr. HAMBURGER. OK, 1-year retention.

The CHAIRMAN. Keeping students in. They're signed up, they're taking the course, they drop out. Again, getting back to what we talked about before, and that is support services, keeping students, I'm trying to see is there a metric that we should be thinking about in retention. What should the retention rate be?

Now, I said community college was 60 percent. I think that seems kind of low, too, the difference being that the kids who drop out of community colleges don't have much debt. They haven't borrowed a lot of money. So they leave and they don't have a lot of debt. But those who have borrowed money, gone to a private for-profit school, they drop out, they've got a lot of debt.

Mr. HAMBURGER. So here's an idea that we think is worth studying, which is to take the Federal student aid system of grants and loans—we have both grants and loans.

The CHAIRMAN. Right.

Mr. HAMBURGER. And without raising the total amount of money, just re-allocate it. So shift the order of grants to be earlier in the academic career, and loans later. That's an intriguing idea, I think. That way, if you tried it and college just wasn't for you as the stu-

dent, you would have used more of your grant but less of your loan. You'd have a lower debt to deal with.

The CHAIRMAN. Mr. Nassirian doesn't seem to like that idea.

Mr. NASSIRIAN. Yes, that's called front loading. By the way, I generally seem to be disagreeing with my colleague. I'm very heartened in hearing some very constructive proposals. This isn't one of them, sadly.

[Laughter.]

The CHAIRMAN. It's an idea. We throw ideas out, then we see what happens.

Mr. NASSIRIAN. What you end up doing is essentially rewarding institutions that capture as many warm bodies on the front end no matter how they do in terms of graduating them. So front loading is not—

Mr. HAMBURGER. In isolation, yes. But it would have to be married with the outcomes measures that we talked about. But that's a fair point.

Mr. NASSIRIAN. I take the point, but the Chairman made—I think the Chairman answered his own question. There is no natural, God-given correct number for retention. Here in America, we would like to give second and third chances to our citizens, so we don't want to exclude anybody from attending college on the theory that they may drop out. They may drop out, they may not drop out. So we want to have a system that gives people opportunity and access.

The problem really comes in when, for those who don't make it, we leave them worse off because they're saddled with crushing debt and really nothing to show for it.

So the trick is to make sure that there are penalties associated with generating too many dropouts.

Mr. SHIREMAN. One helpful suggestion in Mr. Hamburger's testimony was the kind of free trial notion, and I think this development where some colleges are saying you can come in and try out this program, because that's one of the benefits of community colleges, is there isn't that downside of ending up in debt. So if a college has a low retention rate because they're giving people a free trial, that's not necessarily a bad thing.

The CHAIRMAN. But in our investigation, we've seen schools that basically do a lot of work, expend a lot of effort to keep students in for 60 percent of the term, because once you get past the 60 percent of the term, you can drop out and the school keeps the Pell grants and the loans. Wouldn't they just be gaming the system, too? So if you get a free trial, sure they'll keep you in. They'll give you support and stuff. Then after you've passed that point in time, well, if you have to leave, you have to leave; sorry.

Mr. SHIREMAN. Maybe this is something where you need to use that indicator to then bring about more investigation.

The CHAIRMAN. Mrs. Petraeus.

Mrs. PETRAEUS. I was just thinking, listening to this, there is an interesting difference between military tuition assistance and the G.I. bill. With tuition assistance, as we were briefed just recently, they pay by the credit hour and they don't pay until the course is completed. So it's a completely different system of payment than—

The CHAIRMAN. They don't pay it until the course is completed.

Mrs. PETRAEUS. Yes. That's the reimbursement system, as you put it. It's a different system. Something to think about. It's a different way to pay.

The CHAIRMAN. Mr. Cruz.

Mr. CRUZ. On the question of what should the retention look like, I think that most of the discussion has revolved around the students, but what institutions do matter. And so one possible way of looking at this problem is to see how well an institution is performing in terms of retention when we look at its peer institutions, those institutions that serve similar students. Are they under-performing? Are they right where they should be? And are they over-performing?

But we know that in America right now, and again I keep stressing that if we want to get to where we want to be in educational attainment, it's not about being where we should be with respect to our peers right now because everybody is not doing as good a job as they should be.

So we would have to marry the notion of how well an institution is doing with respect to its peers to how well it's growing its overall retention and graduation rates over time, and in doing so how well it's closing the gaps between the different groups of students they serve, because they may be graduating high-income students at a much higher rate than low-income students. And again, given all demographic shifts, that would not serve the country well. So there has to be some form of combining that.

The CHAIRMAN. You just gave me an idea. I don't know if it's any good. Maybe, Mr. Hamburger, this is another idea that I'll throw out and get shot down, but—

[Laughter.]

Mr. HAMBURGER. That's what we're here for. It's a roundtable discussion.

The CHAIRMAN. We're working right now on the reauthorization of the Elementary and Secondary Education Act, No Child Left Behind. We're spending a lot of time working on it. And one of the things that No Child Left Behind did and which kind of opened our eyes as to what was going on was what we call disaggregation of data according to income groups and according to ethnic backgrounds, and that provided us a real window to look at just what was happening to minority students, and especially in what we call the achievement gap schools, where we found that right here in Fairfax County, high-income grade schools, both my kids went to school there, they look all really well and good, but there's a subgroup down there not doing very well at all, and they just kind of forgot about them. Well, we started disaggregating the data and found out there were some real problems there.

So I'm just wondering, do we need to have some kind of disaggregation of that kind of data from the for-profit schools? Who are these students? I don't know that we've ever seen that kind of disaggregation of information.

Mr. HAMBURGER. I think that could be very helpful data. And again, I think that data would be useful to look at students who are attending public sector and independent schools as well.

The CHAIRMAN. When Mr. Cruz mentioned that I said, well, you know, maybe some of your higher-income students who are going to the for-profit schools, they're graduating, but some of the ones down here aren't graduating. We need to know that, I think.

Mr. Nassirian.

Mr. NASSIRIAN. Mr. Chairman, you're going to find out there are very few high-income students attending for-profit schools.

The CHAIRMAN. I understand.

Mr. NASSIRIAN. In fact, that is the problem. I mean, in candor, we need to recognize we have, *de facto*, created a system of separate but allegedly equal. You have created a system in which the for-profit sector is overwhelmingly dominated by extremely low-income students, and that ought to be of concern. Why is there such a separation? Why don't middle-income families send enough of their children to these institutions?

And apropos of consumer protection and some of the suggestions that have been made, it's very critical to understand there is a conundrum here, and that conundrum has to do with the fact that to the extent there are bad actors, and there are lots of them, in my judgment, that the *de facto* fraud is not in the sort of wrapper financial practices that they engage in. The *de facto* fraud is at the heart of the enterprise. They're not teaching people.

It's not just that they package them with predatory private-label loans, it's not just that they're capturing G.I. benefits or active duty DOD tuition assistance money. It's the fundamental problem that they're not actually teaching anything, that the credential is meaningless. It has been validated by an accreditor who ought to have known better. It has been rubber stamped by a State that ought to have known better.

The CHAIRMAN. Mr. Nassirian, I hate to interrupt, but I'm not known as a big defender of the for-profit schools, obviously, but some of the kids who do go online and attend for-profit schools do very well.

Mr. NASSIRIAN. Some do.

The CHAIRMAN. They do finish.

Mr. NASSIRIAN. Some do.

The CHAIRMAN. And they do succeed.

Mr. NASSIRIAN. Some do.

The CHAIRMAN. There are some out there.

Mr. NASSIRIAN. Oh, sure, there are some; not enough. If half of all defaulters in a peer cohort—

The CHAIRMAN. I think that's what we're trying to get at.

Mr. NASSIRIAN [continuing]. Are coming out of 10 percent of your enrollments, on its face there is a statistical problem. It's not to say nobody succeeds. Some do. By far, too few, in my opinion. It seems to me the numbers don't support—

The CHAIRMAN. Well, I agree with that. I agree far too few.

Mr. Shireman.

Mr. SHIREMAN. I think it's helpful to look back at the original G.I. bill 85/15 rule, which was the precursor to the 90/10 that we have.

The CHAIRMAN. Right.

Mr. SHIREMAN. And when you look at what the reasons were for creating it, they were to have some independent evaluation that

this is something that someone would buy if not for having the G.I. bill, and that the price was reasonable, and they wanted to make sure that veterans were—that the G.I. bill was providing access to higher education and access to the same kind of higher education that other people in America had.

I think it would be worth the committee's while to go look back at the design of 85/15 originally and build on that design in terms of looking at how can we encourage programs that are not just aimed at bringing in low-income students and veterans, but how can we have programs that appeal to all income backgrounds, people who can self-pay.

And this will actually help to get at the excess profit issue that you mentioned, because if programs have an incentive to bring in self-pay students who are either paying for themselves or have an employer who want them to take that program, they will need to focus on making sure it's a high-quality program and/or that they reduce their price, and both of those things will help to eat into the excessive profit margins, to the benefit of students and taxpayers.

The CHAIRMAN. Thank you very much, Mr. Shireman.

Mr. Batson.

Mr. BATSON. I'd like to respond to Mr. Nassirian's comment that all of the students attending the for-profits are low income. When we looked at cosmetology, and we did a quick survey of Minnesota, we found that most of the people entering the cosmetology industry are being educated in the private sector. We think it's about 90 percent based on the data we could get from community colleges.

And so this isn't a case of low-income students choosing a private sector school and higher income students choosing a public sector option. We believe that our population is reflective of all of the people who want to start a career in cosmetology.

Now, if you look at the Bureau of Labor Statistics, it says that the median wage is about \$12 an hour. If you look at our own studies, it's about \$15 to \$20 because tips are not fully captured accurately.

So if you look at the types of folks who are going to go into an important service industry, a \$50 billion salon industry, you've got 800,000 people employed in that in what I believe are good service jobs when you compare it to the other 45 percent of our workforce that are in service jobs that are often minimum wage.

I would hate to see us think that somehow only the segments of the population that are low income are choosing the proprietary sector, because that's just not what we see. I think people are choosing a field based on what they know, their family history, their incomes. Some fields are higher income than others, but I really want to be careful that we don't have a perception that somehow we're picking off low-income students, because we're taking all comers.

In terms of the thresholds, I really think that we do have to get serious about figuring out what the minimum standards are and what the zones look like, and I like Mr. Shireman's recommendation earlier in the meeting. I really think this is an empirical question.

We've got to set a floor below which it's just unacceptable, there's not enough of a return on the investment. But at the same time

we've got to gather the data across all the schools and the segments, and we've got to understand really where are we today with different student segments, with different programs. And then we've got to take an approach like Mr. Cruz described. We've got to be realistic about that. We can't set the standards where we wish they were, right? Otherwise we're not going to have higher education. We're going to fall further behind the rest of the world. But we can't be satisfied with where they are today.

And so I think the ideas that Mr. Shireman, Mr. Hamburger and Mr. Cruz put out are right on on that topic.

The CHAIRMAN. Thank you very much.

Mr. Cruz, you had something to add to this?

Mr. CRUZ. Yes. So I'm a big believer in prevention, and today we've been talking about how to improve the for-profit education sector through policy. But when we're talking about the gaps, the Chairman mentioned the K-12 sector. So I would like to just point out that another way in which we can improve the for-profit education sector is through policy, with policy that will influence the K-12 space so that the students that today find themselves with no other options than for-profit education will be in a position to actually aspire to and qualify for and be admitted into institutions in the other sectors. That would move the for-profit sector to have a product that would be more broadly attractive to students.

And through the reauthorization of the No Child Left Behind Act, there's an opportunity there to close those gaps and provide the students that are traditionally underserved with more options.

The other area where we can work on policy to improve the for-profit education sector indirectly is by looking at the higher ed policies and practices of today where, for example, we're at a moment in time when we're talking about possible deep cuts to the Pell grant program, where States are disinvesting from need-based grant aid and shifting it to money-based grant aid, and where public institutions spend nearly the same amount of money on their highest income students as they do on their lowest income students.

So what can be done at the Federal, State, and institutional level from the other sectors, the nonprofit and the public, in order to make it more possible that the students of today who have no other option but the for-profit sector can actually have choices?

The CHAIRMAN. I said I wanted to move. I think we seem to have some broad agreement here today on the need for clear outcomes and better disclosure. I want to talk a little bit now, if I could, and I'm going to start with Mr. Nassirian on this, what role should the Department of Education, States, and accreditors play in holding schools to certain standards, certain standards of quality and performance? What is the role of that triad there? We have the Federal, States, and accreditors.

Mr. NASSIRIAN. That is the triad that has historically conducted gatekeeping for title IV. Obviously, this committee's own investigation should indicate that we have room for improvement presumably on all fronts.

The CHAIRMAN. Actually, on accreditation, if I might interrupt—

Mr. NASSIRIAN. The problem with accreditation, frankly, is that it has become a kind of a vestigial practice that made a lot of sense 40, 50, 100 years ago, and that we are not sufficiently taking account of the changes that have eviscerated it. It made a lot of sense when education was a vocation and a calling that you went into because you really cared about it, as opposed to a lucrative business, to say that institutions ought to conduct self-studies and then share those studies with outside experts to see if they're doing a good job; and when you had, of course, faculty who were tenured, who were on the inside, who actually devised a curriculum and who were the only people who could touch the curriculum.

Now you have an arrangement in which higher education can be extremely lucrative, where executives who are primarily businessmen as opposed to educators design academic policy and configure curriculum, and actually go all the way down to assignment of credit hours, which no sitting college president in the traditional sector would dare touch. That is not something that the president would want to be involved in. That's the academic senate's job. And guess what? They don't work for the president. They all have tenure, and their primary commitment is to the field of mathematics and their standing in chemistry, and they're not going to assign eight credits to a course that, in their judgment, is worth only three.

Accreditation really needs significant reform. I am a big believer in keeping it nongovernmental and private, because we certainly don't want to have politics get into the business of what is ethics, what is biology. As you know, there are various political views on these topics. We think the faculty ought to be in charge of that.

But the problem with accreditation is that insiders dominate it. I mean, would you feel safe on the road if you knew that GM, Ford and Chrysler were the three authorities that devised car safety standards? I don't think any of us would feel safe. We would want to talk to them. They certainly ought to be part of the conversation. But I think we need an independent authority to arbitrate the claims of consumer advocates and car manufacturers and other stakeholders.

The process we have today is just so overwhelmingly dominated in every way, in terms of resources, in terms of how the system is financed, in terms of who does the accreditation, in terms of who sets the criteria, that you have essentially delegated what is a very important public oversight function to not only the private sector, but the private sector with a direct stake in the outcome.

Accreditation needs to be significantly overhauled, very much along the lines, by the way, I think my colleagues would agree. And in fact, I think Mr. Batson is onto something primarily because his field is so well-defined that there isn't a huge amount of debate about whether somebody is eligible to become a cosmetologist, to become a barber. It's a licensed activity, and there is sort of a black line marker that you either cross or you don't.

We need accreditors to be better incentivized very much in the same way as auditors are, right? I mean, one of the problems we have is that accreditors can rubber stamp applications of even the most questionable institution and even have horrific things happen, and they can just go on to rubber stamp another application, many

times from the very same people who brought you the previous disaster.

I have some very concrete ideas. There are some conflict of interest rules that the committee should insist on, and obviously there ought to be a system of graduated penalties. I really believe in that, because if the only option is to withdraw recognition, you have set a very high bar for the Secretary.

The CHAIRMAN. Any other thoughts on accreditation? I must say openly that when we started looking at this, I always thought, well, a school is accredited; that's good. They got accreditation from some entity that was separate and apart. Imagine my surprise when I found out that the accreditors are paid by the schools they accredit.

Part of my other life is being on the agriculture committee, and for years I have fought against, for example, having our meat inspection paid for by the packers. It should be paid for by us. I don't want them paid by the very people that they're inspecting. So far we've kept it that way.

But I don't know how to—on this accreditation. Does anybody have any thoughts on that? But since we're looking at this how do we have better standards for our for-profit schools, and who is going to hold them accountable for these standards, will it be these accreditors or some other entity? I just don't know what role accreditation plays in this, in ensuring quality, for example, ensuring quality in these schools.

We have examples of accreditors accrediting—well, let me get to another point. Right now, you can buy a school that's been accredited, and you get the accreditation. Well, should you deserve that accreditation or not? If you just buy a school and you buy their accreditation, shouldn't there be some performance standards that you should have to meet or something before you get that accreditation? I don't know.

Mr. NASSIRIAN. Mr. Chairman, taxicab medallions can't be sold as easily as accreditation is sold.

The CHAIRMAN. What?

Mr. NASSIRIAN. Taxicab medallions, to buy a taxicab medallion, you need to have a hacker's license. It's really bizarre that a change of control, which is what we're talking about, doesn't trigger a new accreditation requirement.

I actually have submitted in my written statement a proposal that the particular issue you raise is, frankly, an easy one. The practice of buying and selling accreditation ought to come to an end. That should not be sanctioned, because by definition your accredited status is a consequence of the previous management of the place. When a new management team comes in and buys the place, on what basis can you conceivably extend that status when you realize whatever it was that maintained that status is now gone and a new team is in town with different priorities and different previous behaviors?

The CHAIRMAN. Any other thoughts on that, Mr. Hamburger?

Mr. HAMBURGER. We should point out that accreditors can and do deny accreditation upon a change of control. A recent example was Dana College in Nebraska where the Higher Learning Commission of the North Central Association did not approve the

change of control accreditation, and the college closed down, 100-year-old Lutheran college in——

The CHAIRMAN. Yes, Dana.

Mr. HAMBURGER [continuing]. In Nebraska. You might be familiar with it. It's not too far away from Iowa.

The CHAIRMAN. I know where it is. It's across the bridge. I know exactly where it is.

Mr. HAMBURGER. So, they do. I think there's a little bit of a slight exaggeration there. But the point remains, whether it's the same as taxicabs or it's not, this is about solutions, and I think we actually agree that the solution would be that on a change of control, the accreditor does, as they can, evaluate the school that's in question. And certainly the Department of Education has to approve any change of control.

Mr. NASSIRIAN. Again, the burden is—it's not to prove that accreditors can't deny, it's that they have historically. I can cite examples even involving DeVry of a takeover of a traditional institution run a certain way, with a handover of that accredited status to a new management team that is just markedly different. This isn't to say they're worse necessarily, but they're different than the management team that earned that accreditation status.

I think the burden is on the side that says accreditation ought to be transferrable.

Mr. HAMBURGER. OK, Barmak, I'll give you an example of that. We acquired the Chamberlain College of Nursing in 2005. It was founded in 1889. And so, yes, we are different. We weren't around in 1889, so it is a new management. And what did we do? We invested in student support services. We cleaned up the dorms, got the asbestos out of the dorms, bought all new computers, invested millions in patient simulators that cost \$100,000 apiece. The students now pass the NCLECs—that's the nursing boards—at an over 90 percent rate. That's a change of control.

I don't want to get into blanket statements here. We do need to apply human judgment, back to my earlier point. There are times when the change of control and a new management team is perfectly appropriate.

The CHAIRMAN. Well, two last things. We're getting late. To me this is vitally important, this discussion we're having, because we're trying to get to a point where we can see what do we need to do, and I'll follow up with that in a minute.

But right now, one thing that's kind of bedeviled us in looking at this is that, as we point out, broadly speaking across the sector, 86 percent of the revenues come from taxpayer dollars; some more, some less, but that's the average. Most of that is not spent on education.

What's the rationale for allowing schools to use unchecked amounts of taxpayer dollars, over \$250 million each year at some schools, to market and in some instances market deceptively? We've talked about that.

Should for-profit companies be able to use non-Federal revenue sources for this purpose? Should there be, again, a disaggregation there? How much should be used for marketing and for profit, and how much should be used for educational support? Getting back to educational support services. Any thoughts on that?

Mr. BATSON. I apologize. I just wanted to make one comment in response to Mr. Nassirian's comment about not allowing accreditation to continue on change of ownership. I think that that is impossible and impractical in the real world, and I think we have to manage it in other ways.

I wouldn't be in this business if that were the case. I can tell you that I've bought a couple of small schools from owners who were ready to retire. They would have spent 20 years building up their schools and had no value, because it takes 2 to 3 years to get accreditation from scratch, and if they've built a revenue stream over many years, you've basically destroyed all the value of their business.

I really think that the answer is not a loss of accreditation on change of ownership. It's really making sure that these other kinds of standards that we've talked about today are in place. If you had these circuit breakers, as Mr. Shireman was talking about, you wouldn't have these issues. The circuit breaker would trip before you got hyper growth with low quality after an acquisition.

I feel passionate about this because in our industry we have lots of small schools, and I know what a hardship that would be for all of those owners across our sector if they couldn't do that.

The CHAIRMAN. Mr. Nassirian.

Mr. NASSIRIAN. Sorry, Mr. Chairman. I wanted to clarify what I meant by change of control was not the change of control, regulatory change of control language you're referring to. It was the conversion of nonprofits to for-profits or for-profits back to nonprofit status. Obviously, a business by definition can change owners. That's not objectionable. At least I understand it's a for-profit activity. It's when you see those red flags of a Lutheran college that suddenly goes for-profit. And increasingly, by the way, we're seeing the flip side of it now, for-profit colleges that suddenly declare a charitable calling and become nonprofits.

Mr. BATSON. Thank you for the clarification. That's completely different than the circumstances that we're operating in.

The CHAIRMAN. Should we be looking at how much Federal money is being used by for-profit schools for marketing?

Mr. NASSIRIAN. Yes.

The CHAIRMAN. And if money is fungible, how do you do that?

Mr. NASSIRIAN. Mr. Chairman, I looked at the advertising and recruitment budgets of eight of them, eight publicly traded ones, about a couple of years ago, and it really was stunning to me because it was so clear that we're looking at something in excess of \$2 billion, with a B, a year of Federal money. I mean, it's one thing for somebody to spend \$2 billion selling a product they developed in infomercials on late-night TV with their own money. That's for them to decide. But if a sector is almost 86 percent dependent on Federal funding and it's spending \$3 billion on advertising, there really is an issue there.

Yes, money is fungible. But in some cases, I do think some measure of responsibility can be mandated in Federal law, that Federal financial aid money should not go into advertising, lobbying, those kinds of things that should only be done with truly private funds. So at least let's cap it so that they don't exceed their non-Federal resources for that.

The CHAIRMAN. Mr. Shireman.

Mr. SHIREMAN. Perhaps this is one of those areas where it would be useful to have a trigger and then have something that goes into effect, so a trigger at some percentage of Federal funds as their revenue, and then it triggers something like—and it may be useful to think about this not as a limit on marketing, because then you've got the problems of redefining categories, but instead maybe it's something like if the bulk of their revenues are from Federal funds, then the amount that they're charging can't be more than, let's say, double what they're spending on instruction, something that gets at something that's more definable and auditable. Something in that area might be a way of handling that issue.

The CHAIRMAN. My staff just said we looked at 15 public companies, and 86 percent—it was \$3.7 billion, so there were \$3.2 billion in Federal dollars at these 15 companies were being used just for marketing.

Oh. I'm sorry, Mr. Hamburger.

Mr. HAMBURGER. On marketing, we certainly understand the concern. Any type of misrepresentation, inappropriate marketing, or even aggressive marketing, especially of a program that does not deliver value, is certainly of concern, and there's the point. The key to the solution I think goes back to the academic and educational outcomes. Do the students learn? Do they graduate? Are they employed? Are they repaying their loans? Are they getting licensure?

I would think that we want a college that does those things to tell the world about it, which is marketing, and we would want them doing a lot of activities. I understand the concern, but we need to be careful about managing inputs rather than outputs, because when we get into the inputs, there are a number of categories, especially in the Federal cost category system that we have—in your office we talked about how at DeVry we visit a million high school students a year, including young women, encouraging them to go into science, technology, engineering and math, STEM programs. In the definition, that's considered marketing. But that's part of our outreach.

On the other hand, college sports, football teams, basketball teams—and let's remember that public sector schools, the vast bulk of their revenue also is taxpayer funded—that's not considered marketing.

We're into these measures of inputs rather than measures of outputs. So I would suggest, again with our focus on solutions, that we focus on a solution that's output measures, and if the college is doing a good job, that's the test.

The CHAIRMAN. I have to think about that and how much Federal dollars are being used for marketing. Boy, I have to think about that one, especially when there's so much—when there's more—when out of every dollar for some of these for-profit schools, like maybe as high as 60 to 70 cents is for marketing and profit, and 30 to 40 cents is for education. That seems to be an imbalance to me. No?

Mr. HAMBURGER. No, I would agree with you. I haven't seen that. That's a ratio that I'm not familiar with—

The CHAIRMAN. I'm not talking about yours. I'm talking about some of these others we've looked at.

Mr. HAMBURGER. OK. But I do know that when I drive to work—I've got a long commute every day—the billboards are one after another for public sector State schools, for independents, the vast majority. There's a lot of marketing going on among all sectors. All colleges have to market.

Mr. NASSIRIAN. The difference is that there isn't the same sort of disproportionate—

The CHAIRMAN. I asked my staff, I remember, we looked at how much the private, nonprofit, and community colleges were spending. It's about 3 percent on advertising, on marketing.

Mr. NASSIRIAN. And also, the revenue sources are different. The challenge here is you have a sector that is overly dependent on one set of programs, that is over-advertising, and that is associated with generally dissatisfactory outcomes. That's the holy triangle of unhappy Federal spending.

It seems to me I don't disagree that in a perfect world you would key everything off of outcomes. The challenge here is the billions of dollars of revenues that go into the sector, the billions of dollars of advertising with which they pull those revenues into the sector are all front loaded, and the outcomes in question are years out, so it's very hard to measure.

The CHAIRMAN. I'm going to try to bring this to a close, but if somebody has—

Mr. BATSON. I was just going to comment briefly. This issue doesn't really affect us because cosmetology students generally know very early that they want to be in the field, and so there's a finite universe, and they know how to find us.

But from a practical perspective, it feels like this would be very difficult to do. I mean, I can't think of a clean way to put some sort of a bright line marketing restriction in place. And I've got to believe that if we get the alignment of incentives right and we have outcomes measures, that it will be completely unsustainable for a school to spend 60 or 70 percent on marketing and profit and have outcomes that aren't going to trip these circuit breakers that Mr. Shireman and others have talked about.

I agree that it's an issue today, and it needs to be addressed. I'm just wondering if we can't get at it, at the root of it rather than at the symptom level.

The CHAIRMAN. Before we close I'd like to go down the panel for any last thoughts. As I said at the beginning, I wanted to have a general discussion. I think we had a pretty good discussion on outcomes, disclosure standards, incentives and I just wondered if anybody had any last thoughts, maybe something we haven't even brought up or discussed yet that you might want to say before we leave here.

Yes, Mr. Barr.

Mr. BARR. Thank you, Chairman Harkin. The conversation today I think has been incredibly productive, and it's just been so richly benefited by the presence of two leaders in the private sector field.

I think one of the challenges in this sector, as it is in many other sectors of regulation, is trying to improve the regulatory environment for what you think of as high-road players in the industry, the players who are trying to set the highest standards and to achieve them, because the competitive pressures that these institu-

tions face from players who have lower standards is so strong, the incentives are so hard in that environment, and you've seen this in mortgages, in finance, in derivatives that I know you've dealt with a lot, in credit card markets.

And unless you can set those standards and enforce them in a level playing field sort of way, the kind of institutions that we have here before us today can't really compete without being pushed into that lower standard environment.

The CHAIRMAN. Anybody else? Mr. Batson.

Mr. BATSON. I think we've had a rich discussion on how to move to a new, more effective outcome-based regulatory framework that includes a combination of disclosures, enforcement, and circuit breakers. And as I think through this system, I think we have to be mindful that there's one group of constituents not at the table, and it's smaller schools.

So I think a lot of these controls, secret shopping programs, the things that big schools are going to be able to set up very effectively and self-monitor, we've got to be thoughtful about how these are going to work within and for the smaller schools who aren't at this table, and we've got to be sure that we make this framework simple enough and transparent enough that you don't need huge amounts of people on your staff in order to manage it.

The CHAIRMAN. Any other final thoughts? Mr. Cruz—I'll just go down the line.

Mr. CRUZ. I appreciate the opportunity to be here today. I would say that as we move forward in thinking about the policy decisions, as I mentioned before, if they're for improving for-profit colleges, we also need to look at the conditions that create the niche for the for-profit colleges to exist in the first place, and that's about inequity in access to good schools in the K-12 system, and also inequities in the way that nonprofit and public institutions manage their institutional financial aid, and the way that States are diverting funds from those that need it the most to those that need it least.

Then when looking at how to manage all these different policy proposals that have been presented here today, know that in the case of for-profit education there's this iron triangle, if you will. In the nonprofit and the public sector, the iron triangle refers to the fact that it's difficult to get access, affordability and quality at the same time. Well, we know that in the for-profit sector, access is there. By definition, it can be there; it's provided. But the other two items remain, which is the question around quality and the question around affordability, in this case affordability to the students.

The third point that replaces access is profitability. So profitability is going to be at odds with access—I'm sorry, with affordability and quality. So how do we develop the incentives and the enforcement to compel the institutions to make sure that that balance is reached for the benefit of the students?

The CHAIRMAN. Thank you.

Mr. HAMBURGER. Thank you again, Mr. Chairman. We appreciate the opportunity to focus on solutions. The time is right to move forward on that. And our focus is on solutions to the issues here, as well as solutions to the big question, which is how do we educate more Americans for jobs, right? And how do we create a

competitive workforce for our country when we have statistics like we're going to be a million nurses short by the end of this decade, yet collectively we're turning away 100,000 qualified applicants because there is not the capacity to educate them.

In that environment, to achieve those goals we're going to need the capacity from all three sectors, from the private sector, the public sector, and the independents. We do thank you for your acknowledgement that the private sector plays an important role, adding capacity and opportunity, and actually we're doing so at a lower cost to taxpayers when you do the math. The private sector can do so with quality outcomes, as we've talked about, and offering access to nontraditional and underserved students, and the private sector has been the source of a lot of the innovation in higher education.

We are part of the solution. We want to work together on solutions, and our summary focuses on outcomes and holding universities to a set of best practices. So metrics of accountability and standards of practice. Those are our two pillars that we've included in our written statement.

We look forward to working together, can't wait to follow up. We've got some big goals to go achieve together.

The CHAIRMAN. Thank you very much, Mr. Hamburger. Thank you.

Mr. Nassirian.

Mr. NASSIRIAN. Mr. Chairman, I just want to thank you for the entire series of hearings. I was around when the Nunn hearings sort of exposed the rampant problems within title IV, and I vividly remember the extent to which the committee of jurisdiction actually resisted suggestions that problems existed that needed to be very honestly and forthrightly addressed.

So I just want to thank you on behalf of people who don't generally have access to you that this is important work that this committee has done. It's been very thankless work. It could have easily been avoided and swept under the rug, and I think it is enormously important that this committee, and particularly in your person, because you simultaneously carry the burden of funding these programs as well. So I think it is tremendous, and I just want to thank you for the entire series of hearings.

The CHAIRMAN. I appreciate your input into our debate and discussion on this, and for your statement, and for being here today, Mr. Nassirian.

Mrs. Petraeus.

Mrs. PETRAEUS. Mr. Chairman, I can't claim to be the expert on education that many of the people who are at the table are today, but I will say that what I can claim to be an expert on is military families. And Congress has acted to give our military personnel, and now their spouses as well, a very generous education benefit system, and I'm very grateful for that.

I appreciate you taking the next step, which is to see that that education money is well spent for them, and that they get good results from it. And on our very first day of official activity, I'm very happy to be here representing the CFPB and to say that we look forward to working with you on this problem.

The CHAIRMAN. Thank you, Mrs. Petraeus.

Mr. Shireman.

Mr. SHIREMAN. Mr. Chairman, thank you so much for holding this hearing and for your involvement in this issue over time. I think it has from the beginning been—there have been attempts to portray it in the same way that people tried to portray me, as just going after a sector because it was making a profit. But the reality is there has been a problem, there are issues, and there are solutions, and it's great to be here in a conversation about solutions going forward, because as my old boss, Senator Paul Simon used to say, we can do better.

The CHAIRMAN. He was a great friend of mine. Well, thank you very much, Mr. Shireman.

Thank you all for being here today and taking a lot of your time to be here and to share with us.

I would say I hope that as we proceed on, that my staff, my professional staff could be in touch with you as we move ahead and start to develop some prospective pathways in which we're going to go, and develop some of these things. Mr. Batson especially, I want you to get me all that you just said that I don't remember, but it sounded pretty good to me. And Mr. Hamburger, you can also be very helpful in how we move ahead on this. All of you can. You all have different aspects of this.

Mrs. Petraeus, I can tell you that just in the last few weeks or so, most of the talk has been about the deficit and the debt. Obviously, that's the big issue around here. But I can tell you not just a few but quite a few Senators on both sides of the aisle have come up to me to talk to me about this 90/10. So I think that's one thing that we're really going to be focused on in the short term in that regard. There's other aspects of the military also in terms of recruitment and how that is being done in accordance with what Mr. Barr was saying in terms of the payday loans and things like that, that some of our military people have been subjected to. So we're going to be looking at that, too.

How do we incentivize schools and their investors not to value growth in the absence of good outcomes? How do we ensure that investors look at more than just enrollment growth? Again, someone mentioned about the balance, the balance between profit and quality. As I've said many times, there's a role I believe for capacity. We need a lot of different people out there that we don't have the capacity for, and this is where for-profit schools can help a great deal, and we need it in a short span of time. You mentioned nursing just being one of those.

How do we balance the profitability sector of that? And I've said more than once today that I'm going to be still looking at this and how do we connect profitability with good products, good outcomes, rather than you get a lot more profit if you just get the poorest students who get the most Pell grants and the most student loans, and whether they stay with you or not is not that big a factor.

There's got to be something to do with profitability and also outcomes, and how do you get investors to look at that? I don't have the answer to that question. I have the question, but I don't have the answer.

There are a lot of other things in terms of existing regulations. I have to thank Mr. Batson, who has been quite right in this.

There's a lot of nitpicking regulations that drive people nuts, but not the overall that really ensures good outcomes and good standards for schools.

This committee is committed to looking at this sector and seeing what we can do to help it improve. If there is a—and I am dismayed. I will say this publicly. I am dismayed that the association for the for-profits filed lawsuit on the gainful employment rule. It almost seems to me that there are some in this sector, not all—I'm not about to paint everybody with any broad brushes. But there are some in this sector that, quite frankly, don't want us to change anything. They're quite happy with the way it is right now. They're making great profits, and they're not being held accountable.

If there are schools out there that feel that way, I'm sorry. I think there are other good schools out there that are really trying to do the right thing, and I don't want the good schools sucked into a vortex of—what should I say?—lower expectations and a race to the bottom kind of thing, where you can still make big profits but you don't have to do anything and have good outcomes. I have a sense, having been at this now for about 18 months, that it is a kind of a vortex, that sometimes good schools get caught into this. If I'm going to compete and somebody is taking my students away from me, and they're doing all of these bad things, well, maybe I've got to do it too to get my share of those students.

So I don't want this race to the bottom. I'd rather have them competing on who has the best outcomes, the best performance, the best standards, that kind of thing, and not get sucked into this vortex of being dragged down because somebody else is competing with you and they aren't abiding by those standards and those outcomes.

So I must say to this sector that we are going to look at making changes, and I want them to be meaningful. I'm not out to put anybody out of business or anything like that, but I want this sector to be able to do what you said, Mr. Hamburger. We've got a capacity problem out there, and we've got to meet this capacity problem.

And again, and I'll just say this forthrightly. I think that maybe some of the profitability margins of some of these companies are going to have to shrink because they're going to have to put more money into student supports, and they're going to have to put more into helping these low-income students that don't have that good background.

If that's who they're going to recruit, I want to see some support out there for it. And that may eat a little bit into the profit margins. I don't want to take away all their profits, but it may eat into it a little bit. OK, fine, but I want to see better outcomes.

So anyway, this is what we're looking at, and I look forward to continuing our conversation with schools, groups, individuals who want to play a constructive role in this, who want to play a constructive, forward-looking role in moving this ahead so that we can meet the goal of making sure that our students are well-educated for the future jobs.

I just saw a graph today between the demand and the supply of students. Since about 1980, the demand has gone up and the supply is going down, and we're just not getting well-educated people in our country.

So help us out, all of you here. Help us in our thinking. Help us in where we've got to go. Just don't come to this committee and say nothing needs to be done, we're fine the way it is, leave us alone. That's not going to get very far with this committee.

So with that in mind, I thank you all very much. You've been very constructive. Again, I hope we can continue to work with each one of you in moving ahead on trying to make this a better sector for all. Thank you very much.

The committee will stand adjourned.

We'll leave the record open for 10 days, and witnesses and others may submit statements for the record or supplemental statements.

The hearing is adjourned.

[Additional materials follow.]

ADDITIONAL MATERIAL

REPOSE TO QUESTION OF SENATOR ENZI BY JOSÉ CRUZ

Question. Since January 20, 2008, have you been employed by the Department of Education or the Obama administration in any capacity? Have you worked for the Administration on a contractual basis during this time? If so, please explain the nature and scope of the work performed—as well as any compensation provided. Please also provide the committee with copies of any consulting contracts.

Answer. Since January 20, 2008 I have not been employed by the Department of Education or the Obama administration in any capacity. I have not worked for the Administration on a contractual basis during this time, but in April 2009 I did serve on a review panel for the National Science Foundation's Centers for Research Excellence in Science and Technology (CREST). In accordance with standard NSF procedures, the Foundation covered the cost of my round-trip airfare (coach class) and provided me with a travel reimbursement of \$280 and a meeting reimbursement of \$480 a day. The review panel lasted 2 days. These reinforcements covered the cost of my hotel, ground travel in DC, and meals for the duration of the review panel.

RESPONSE TO QUESTIONS OF SENATOR MERKLEY BY HAYES BATSON

An issue which has been brought to the forefront at several of the HELP Committee hearings is programmatic or “specialized” accreditation, and who is responsible for informing a student about a particular program's status.

There is no doubt that a contributing factor to the failure of some students to complete their education and in many cases having high default rates is that they find out too late that the program they are enrolled in doesn't have the necessary specialized or programmatic accreditation. However, it is important to point out that programmatic accreditation is not available for many academic programs, including many online programs.

On May 20, I sent a letter to the Department of Education urging that they consider review of the false certification regulations as part of the upcoming negotiated rulemaking process. It is my view that expanding the false certification discharge provisions of the Higher Education Act would protect students from incurring student loan debt for enrolling in programs that are title IV-eligible and accredited by a primary accrediting agency, but that are not recognized by a programmatic accrediting body. This would encourage institutions to correctly represent their programs from the outset, rather than force students like Yasmine Issa (who testified at the June 24, 2011 HELP Committee hearing) to try and decipher through the complicated maze of institutional vs. programmatic accreditation or find out too late that the program they are enrolled in doesn't have programmatic accreditation, if available.

The Department has issued new regulations on misrepresentation, however these rules provide no relief for the borrower/retroactive relief for someone in Yasmine's situation.

Question 1. I would like to ask the panelists for their thoughts on this issue, including the need for schools to clearly communicate the accreditation status of individual programs to potential students before they enroll, and whether taxpayers should be subsidizing programs that do not have the requisite programmatic accreditation.

Answer 1. We believe the Senator has raised some excellent questions about how we can ensure that students have meaningful access to the information that is most critical to them when they decide where to attend school. We agree that students must have meaningful information about what benefits they should expect to obtain from completion of any given program, including whether the program is likely to lead to employment. However, we have concerns that students are unable to effectively use the information already provided to them—due primarily to how many disclosures are required but also due to inconsistencies in how disclosed data is collected, verified and reported. We believe the most relevant data for students includes information on the percentage of graduates from a program that get jobs in the field(s) associated with the program. More students will make smart choices about enrolling in programs if we have uniform disclosures of placement rates and these disclosures are not lost in a sea of other data that is difficult to interpret.

Specifically with respect to accreditation, the current complexity in the accreditation system is a formidable barrier to providing clear, consistent and meaningful disclosures about accreditation that enable students to make informed choices. One reason is that there are two types of accreditation (institutional and programmatic) and accreditation, including programmatic accreditation, is not uniformly related to

a student's ability to obtain State-required licensure or certification to work in a field across States and professions. Similarly, the degree to which employers will require completion of an accredited program as a job condition varies by profession and by geography. Additionally, specific program accreditation may be either a pathway or a requirement to sit for examinations by nongovernmental groups that certify proficiency in a vocational field.

Because there is significant variability in the strength of the link between programmatic accreditation and employment, we believe that accreditation status is not a good proxy for employability, which is what students really want to understand. Accordingly, we favor uniform disclosures of placement rates, which speak directly to employability, rather than accreditation as a proxy. One exception to this recommendation is applicable in circumstances where programmatic accreditation is an absolute prerequisite for getting a license that is needed to work in the State where the student is taking the program. In such a case, we recommend that schools be required to provide a clear warning of this gap to the student during the admissions process.

A look at one vocational field helps to illustrate the variety of the relationships between accreditation and each of: eligibility to administer title IV funds; minimum qualifications for State licensure; minimum qualifications for industry certification; and jobs. Our understanding of these relationships follows.

TITLE IV ELIGIBILITY

In the field of dental assisting the Commission on Dental Accrediting (CODA), an affiliate of the American Dental Association (ADA), accredits dental assisting programs. CODA is a "specialized" or programmatic accreditor and accreditation of a program by CODA does not authorize the school offering the program to administer title IV funds on behalf of students—such a school must have institutional accreditation. A school could be institutionally accredited by ACICS, for example, and may or may not have CODA accreditation for its dental assisting program. In either case, it has established eligibility for title IV funding.

QUALIFICATIONS FOR STATE LICENSURE

State requirements for dental assistants vary widely. The attached document is an effort by the Dental Assisting National Board, Inc. (DANB), a non-profit national credentialing organization in the dental assisting field, to map the various State dental assistant credentials to the DANB credentials. The complexity of the credentialing system at the State level and the existence of a parallel national credentialing system exacerbate confusion about the meaning of accreditation in dental assisting programs.

At the State level and in many States (one example is Ohio) there are no State licensing requirements. Many other States have no educational or licensing prerequisites for entry-level dental assisting jobs but draw a distinction between a dental assistant that performs routine support tasks and one that performs "expanded" functions and/or dental assistants that take x rays. For example, Michigan does not require licensure for dental assisting but requires that Registered Dental Assistants (who perform expanded functions) become registered with a State agency. To qualify for registration, an applicant must have graduated from a CODA accredited program and must pass a State-administered examination. (However, Michigan is also currently experimenting with programs that permit dental assistants to qualify for the RDA exam through continuing education and job experience.) Other States have similar requirements but instead of administering an exam to applicants they rely on national credentialing examinations offered by DANB. DANB is affiliated with the ADA and CODA.

QUALIFICATIONS FOR INDUSTRY CERTIFICATION

DANB is a non-profit organization that identifies itself as the national certification board for dental assistants. It offers certification as a Certified Dental Assistant (CDA), Certified Orthodontic Assistant (COA) and Certified Preventive Dental Assistant (CPDA) to candidates who meet eligibility and examination requirements. To obtain CDA status, an applicant must pass a Radiation Health and Safety (RHS) exam, an Infection Control (ICE) exam and a General Chairside (GC) exam. There are no eligibility requirements for the first two exams. To qualify for the GC exam an applicant must have graduated from a CODA accredited institution or meet work experience requirements.

QUALIFICATIONS FOR JOBS

Based on job listings posted on the Internet, it is our belief that the marketplace does not demand completion of an accredited dental assisting program as a job requirement. However, in some markets employers favor (and in some cases strongly favor) a registration or credential that may be more easily attained because of graduation from a program that is not only institutionally accredited but also programmatically accredited by a separate specialized accreditor. Thus attending such a program may be a marketplace advantage. In addition, in some States it is a requirement to achieve the status needed to perform expanded functions or to take x rays.

Despite these complexities, and in addition to our above recommendations, we believe that there may be additional ways to reduce, to some degree, the complexities of the current accreditation system and to provide more clarity about the value of an accreditation status to students considering educational programs. While programmatic accreditation does not apply to cosmetology and our students are therefore not affected by the dynamics described herein, we would welcome the opportunity to participate in discussions of steps that may advance these goals.

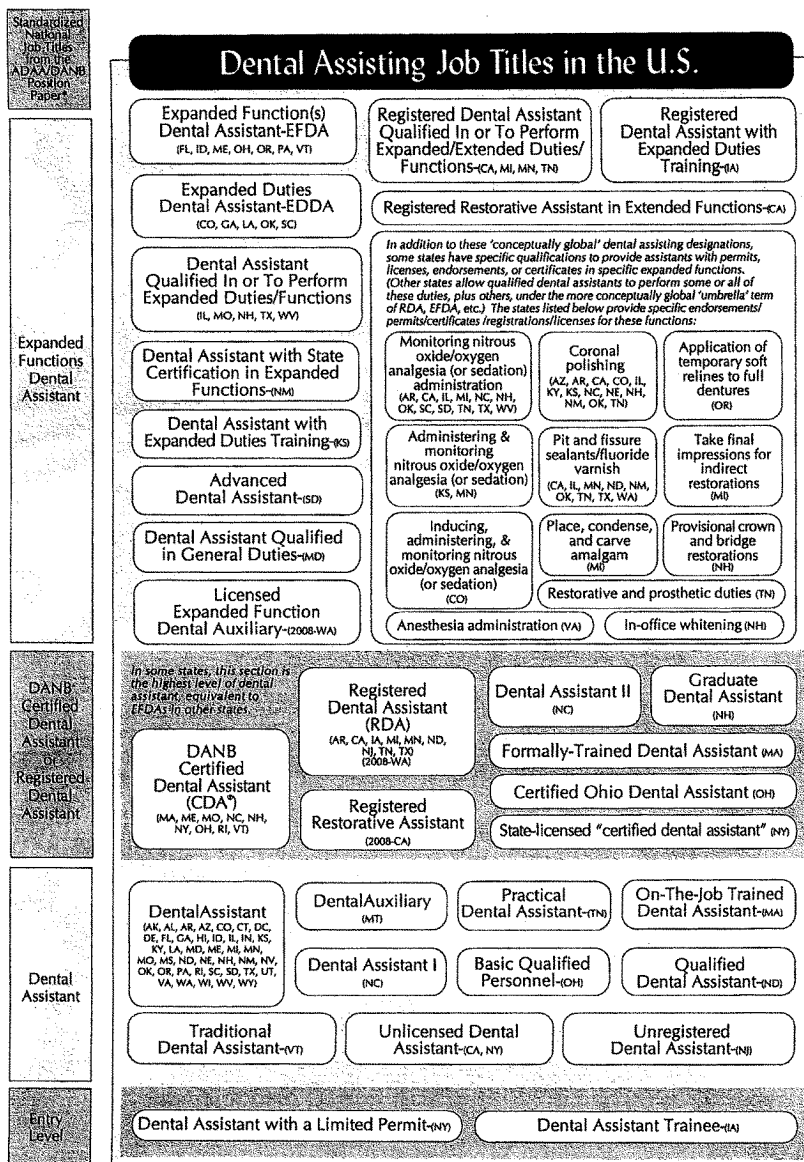
Question 2. I would also like to learn what your thoughts are on the role that State licensing boards must play in ensuring that program quality is clearly defined and communicated to schools, students, and State regulators.

Answer 2. In our industry it is common for State cosmetology boards to perform the task of licensing and monitoring both practitioners in the industry and schools training these practitioners. As outlined in my remarks during the roundtable, these boards heavily regulate many aspects of our program in an effort to ensure that minimum standards of various types are met. Generally speaking, however, State boards do not have consumer disclosure requirements that relate to these standards. We believe that consumer disclosure requirements should be focused at the Federal, not the State, level to maximize the comparability of the data disclosed across schools.

Question 3. The Department of Education recently released new regulations on misrepresentation that require disclosure of accreditation status of programs. My understanding is that the regulations affect programs that lead to occupations that require licensure or certification.

This committee has been concerned about reports that until now students have not been getting such information. What recommendations do you have for institutions and the Department as each works to improve student access to such information?

Answer 3. As outlined in my remarks during the roundtable, we think it is important to deliver information that should influence a student's choice of school in a simple and consistent format and location, across programs and across schools. So, clear definitions of the information that is required is key, as is clear guidance on the specific details of how and where to disclose that information. We think these definitions and disclosure requirements should be outlined in statute. In addition, if statutory requirements for the disclosure of information do not cause schools to act in ways that are uniform, it may be necessary for the Department to create forms that will be used to present the information. This is the approach that the Department is taking for the new gainful employment consumer disclosures. Based on the disclosures that were made when the rule became effective on July 1, the release of the form will be a helpful step in moving toward disclosures that students can actually compare. In addition, active supervision and enforcement of the statutory requirements will be required.



*Taken from Position Paper of the ADA/DANB Alliance: Addressing A Uniform National Model For the Dental Assisting Profession, September 2006

Copyright 2007, Dental Assisting National Board, Inc. May not be reprinted without permission.

RESPONSE TO QUESTIONS OF SENATOR MERKLEY BY JOSÉ CRUZ

An issue which has been brought to the forefront at several of the HELP Committee hearings is programmatic or "specialized" accreditation, and who is responsible for informing a student about a particular program's status.

There is no doubt that a contributing factor to the failure of some students to complete their education and in many cases having high default rates is that they find out too late that the program they are enrolled in doesn't have the necessary specialized or programmatic accreditation. However, it is important to point out that

programmatic accreditation is not available for many academic programs, including many online programs.

On May 20, I sent a letter to the Department of Education urging that they consider review of the false certification regulations as part of the upcoming negotiated rulemaking process. It is my view that expanding the false certification discharge provisions of the Higher Education Act would protect students from incurring student loan debt for enrolling in programs that are title IV-eligible and accredited by a primary accrediting agency, but that are not recognized by a programmatic accrediting body. This would encourage institutions to correctly represent their programs from the outset, rather than force students like Yasmine Issa (who testified at the June 24, 2011 HELP Committee hearing) to try and decipher through the complicated maze of institutional vs. programmatic accreditation or find out too late that the program they are enrolled in doesn't have programmatic accreditation, if available.

The Department has issued new regulations on misrepresentation, however these rules provide no relief for the borrower/retroactive relief for someone in Yasmine's situation.

Question 1. I would like to ask the panelists for their thoughts on this issue, including the need for schools to clearly communicate the accreditation status of individual programs to potential students before they enroll, and whether taxpayers should be subsidizing programs that do not have the requisite programmatic accreditation.

Answer 1. At the HELP Committee's roundtable, I presented a six-element framework for improving for-profit education in America to ensure students get the education that they are promised, and that taxpayers make a worthwhile investment. The framework requires:

1. For-profit colleges, Federal and State regulators, accrediting bodies, and advocacy organizations to embrace the country's **economic competitiveness** as the strategic context in which all higher education sectors operate.
2. Policymakers to address the misguided K-12 and higher education policies and practices that have led to the disparities that gave rise to the current state of for-profit college education.
3. Policymakers and for-profit colleges to level the playing field by eliminating the most toxic academic programs, and by strengthening consumer information and protections.
4. Policymakers to incentivize investments in student success and controlling the student debt burden.
5. Policymakers, regulators and accrediting bodies to contain risk by implementing effective quality controls, and by strongly enforcing the corresponding laws and regulations.
6. Policymakers to encourage disruptive innovations in the for-profit college sector—innovations that will transform the dismal student outcomes that currently plague the sector and cause the most harm to the most vulnerable students who, because of demographic shifts, could in fact contribute the most toward our collective aspirations.

To contain risks through effective quality controls requires that accreditors and States carry their weight. The transfer of accreditation with a change of ownership should be banned. Institutions should not be allowed to offer programs that require specialized accreditation for licensure purposes unless they have the required specialized accreditation. If they do offer such programs, they certainly should not be eligible for title IV financial aid. And accreditors should certainly be measuring student success. States simply need to start regulating beyond the absolute minimum, which is what many do today.

Question 2. I would also like to learn what your thoughts are on the role that State licensing boards must play in ensuring that program quality is clearly defined and communicated to schools, students, and State regulators.

Answer 2. Our higher education regulatory structure is built upon three pillars: Federal regulation, State regulation, and accreditation. These pillars were designed to distribute the load of the many forces that put undesirable pressure on higher education institutions, to mitigate any long-term damage to the structure itself. Most State higher education agencies and licensing boards focus primarily on ensuring that students receive accurate information about each institution and its programs. If the State agencies do not fulfill this role, or do so in a perfunctory manner then students do not receive accurate information about the programs they are considering attending. That, in turn, leads to students attending programs that do not meet their needs or do not properly prepare them for the career path they have selected. Hence, it is imperative that State higher education agencies and the licens-

ing boards maintain laser like focuses on ensuring students have accurate information about both the quality of programs as well as whether the programs satisfy the necessary requirements for licensure in the State.

Further, State agencies should be encouraged not to approve programs that require specialized accreditation for licensure purposes, but which fail to obtain that accreditation.

Question 3. The Department of Education recently released new regulations on misrepresentation that require disclosure of accreditation status of programs. My understanding is that the regulations affect programs that lead to occupations that require licensure or certification.

This committee has been concerned about reports that until now students have not been getting such information. What recommendations do you have for institutions and the Department as each works to improve student access to such information?

Answer 3. Institutions that offer un-accredited programs should be required to display a clear, conspicuous warning on all recruitment, admissions, and financial aid materials distributed to students, as well as on their Web page. The Department should develop a standard, eye-catching warning that must be prominently displayed and which all institutions use—like warnings on other dangerous products, such as cigarette cartons.

Further, accreditation status is not the only piece of information that students need to make an informed decision. Students need to be able to identify and *easily compare* information on data points such as graduation rates, default rates, average debt, job placement rates, and licensure pass rates. Again, the Department should develop a standard template containing a few of these key pieces of information, and institutions should be required to display this information on all recruitment, admissions, and financial aid materials provided to students. Currently, students need to dig through cumbersome Web sites to locate this information, making it difficult to identify comparable data points for different institutions. A standard set of information that appears on all materials—just as credit card mailings contain standard disclosures—could help students make more informed decisions.

RESPONSE TO QUESTIONS OF SENATOR MERKLEY BY DANIEL HAMBURGER

An issue which has been brought to the forefront at several of the HELP Committee hearings is programmatic or “specialized” accreditation, and who is responsible for informing a student about a particular program’s status.

There is no doubt that a contributing factor to the failure of some students to complete their education and in many cases having high default rates is that they find out too late that the program they are enrolled in doesn’t have the necessary specialized or programmatic accreditation. However, it is important to point out that programmatic accreditation is not available for many academic programs, including many online programs.

On May 20, I sent a letter to the Department of Education urging that they consider review of the false certification regulations as part of the upcoming negotiated rulemaking process. It is my view that expanding the false certification discharge provisions of the Higher Education Act would protect students from incurring student loan debt for enrolling in programs that are title IV-eligible and accredited by a primary accrediting agency, but that are not recognized by a programmatic accrediting body. This would encourage institutions to correctly represent their programs from the outset, rather than force students like Yasmine Issa (who testified at the June 24, 2011 HELP Committee hearing) to try and decipher through the complicated maze of institutional vs. programmatic accreditation or find out too late that the program they are enrolled in doesn’t have programmatic accreditation, if available.

The Department has issued new regulations on misrepresentation, however these rules provide no relief for the borrower/retroactive relief for someone in Yasmine’s situation.

Question 1. I would like to ask the panelists for their thoughts on this issue, including the need for schools to clearly communicate the accreditation status of individual programs to potential students before they enroll, and whether taxpayers should be subsidizing programs that do not have the requisite programmatic accreditation.

Answer 1. We agree that schools should clearly communicate programmatic accreditation status to prospective students, most importantly when such accreditation affects eligibility for professional licensure and employment opportunities. Schools should also disclose any alternative paths to licensure or employment. Taxpayers

should expect that federally funded programs in higher education disclose accreditation information in a transparent and understandable manner.

Question 2. I would also like to learn what your thoughts are on the role that State licensing boards must play in ensuring that program quality is clearly defined and communicated to schools, students, and State regulators.

Answer 2. State licensing boards play a critical oversight role in postsecondary education. They publish minimum standards that postsecondary institutions must meet to operate and grant degrees, and conduct periodic assessments to ensure that minimum requirements continue to be met. However, State higher education authorizing agency requirements vary widely; many conduct a robust evaluation of institutional policies and outcomes to determine that State academic standards have been satisfied, while others perform less rigorous evaluations or grant exemptions from licensure based upon an institution's attainment of institutional accreditation. For this reason, we believe the *primary* role of program quality assurance lies with institutional and programmatic accreditors. The in-depth accreditation process, along with program-specific accreditations, provides assurance to both students and our State licensing agencies that rigorous standards of quality have been met.

Question 3. The Department of Education recently released new regulations on misrepresentation that require disclosure of accreditation status of programs. My understanding is that the regulations affect programs that lead to occupations that require licensure or certification.

This committee has been concerned about reports that until now students have not been getting such information. What recommendations do you have for institutions and the Department as each works to improve student access to such information?

Answer 3. The new rules require institutions to disclose programmatic accreditation status for each of its programs, including the fact that a non-accredited program has accreditation options available. We understand the Department and consumer advocates' concerns relative to programmatic accreditation. However, we believe that merely disclosing programmatic accreditation status does not sufficiently address the concerns. Students want to know if an individual program prepares and qualifies them for entry into specific fields of work. In many cases, licensure is a mandatory condition to working in a specific field and programmatic accreditation may be a condition for a program's graduates to qualify for licensure. In many other cases, programmatic accreditation and licensure might enhance employment prospects, but are not prerequisites for employment. Students also want to know to what extent an institution's programs qualifies them for prevailing jobs in their area. Students should be informed in clear, direct language:

- Whether licensure is required to enter employment in their field of study;
- If yes, does an institution's program qualify a student for licensure without any further study;
- If no, to what extent do non-licensed employment opportunities exist in the geographical area in which they are studying;
- The licensure outcomes of a program's graduates, and;
- The employment outcomes (rate, common position titles) of a program's graduates.

RESPONSE TO QUESTIONS OF SENATOR MERKLEY BY BARMAK NASSIRIAN

An issue which has been brought to the forefront at several of the HELP Committee hearings is programmatic or "specialized" accreditation, and who is responsible for informing a student about a particular program's status.

There is no doubt that a contributing factor to the failure of some students to complete their education and in many cases having high default rates is that they find out too late that the program they are enrolled in doesn't have the necessary specialized or programmatic accreditation. However, it is important to point out that programmatic accreditation is not available for many academic programs, including many online programs.

On May 20, I sent a letter to the Department of Education urging that they consider review of the false certification regulations as part of the upcoming negotiated rulemaking process. It is my view that expanding the false certification discharge provisions of the Higher Education Act would protect students from incurring student loan debt for enrolling in programs that are title IV-eligible and accredited by a primary accrediting agency, but that are not recognized by a programmatic accrediting body. This would encourage institutions to correctly represent their programs from the outset, rather than force students like Yasmine Issa (who testified at the

June 24, 2011 HELP Committee hearing) to try and decipher through the complicated maze of institutional vs. programmatic accreditation or find out too late that the program they are enrolled in doesn't have programmatic accreditation, if available.

The Department has issued new regulations on misrepresentation, however these rules provide no relief for the borrower/retroactive relief for someone in Yasmine's situation.

Question 1. I would like to ask the panelists for their thoughts on this issue, including the need for schools to clearly communicate the accreditation status of individual programs to potential students before they enroll, and whether taxpayers should be subsidizing programs that do not have the requisite programmatic accreditation.

Answer 1. Senator Merkley, I completely agree with your observations on this issue. First, dead-end, toxic programs that lack the programmatic or specialized accreditation required for licensure or employment in the applicable field should simply not be eligible for Federal financing. This fairly basic and commonsensical first-step would ensure that, at the very least, all graduates of title IV-eligible programs would have a theoretical chance of actual licensure and employment in the profession that they (and the taxpayers) spent thousands of dollars to be trained for.

Second, for those individuals, like Ms. Issa, who were misled into programs that lack the necessary programmatic or specialized accreditation, the false certification discharge would be a reasonable remedy that the Department should provide. Providing this relief to students should be combined with vigorous legal pursuit of the operations that deceived them into enrolling in unaccredited programs.

Finally, even after ensuring that unaccredited programs are not provided easy access to Federal financing, appropriate, plain-language, standardized disclosures should be mandated for participating schools. At a minimum, these disclosures should not only articulate all applicable requirements for licensure and employment in the field in question, but also the actual audited statistics for licensure pass-rates and placement rates for the specific program in question.

Question 2. I would also like to learn what your thoughts are on the role that State licensing boards must play in ensuring that program quality is clearly defined and communicated to schools, students, and State regulators.

State licensing boards should *independently* inform the public of licensure requirements and statistical reports on pass rates of applicants from various programs. This would enable prospective students to evaluate various schools and programs on the basis of their graduates' success. Schools should be required to include the address, phone number and Web address of the appropriate licensing board in any advertising for programs that may reasonably be perceived as training students for careers that require the applicable licensure. This mandate should be carefully constructed to include the many confusing programs that are carefully designed to *suggest* future lucrative professional employment in licensed professions, but that are only simulacra of real fields intended to deceive applicants.

Question 3. The Department of Education recently released new regulations on misrepresentation that require disclosure of accreditation status of programs. My understanding is that the regulations affect programs that lead to occupations that require licensure or certification.

This committee has been concerned about reports that until now students have not been getting such information. What recommendations do you have for institutions and the Department as each works to improve student access to such information?

Answer 3. The real challenge with these disclosures is to prevent unscrupulous providers from confusing prospective students. As Ms. Issa's case amply demonstrated, the school misled her (and continues to mislead other cohorts of students to this day) into enrolling in a dead-end unaccredited program by disclosing the (institutional) accreditation it does have, rather than the (programmatic) accreditation it doesn't have. As mentioned above, the best solution of all would be to ensure that only fully accredited programs are eligible for title IV financing in the first place. Short of that, the accredited disclosure mandate should be crafted in a manner that forces schools to disclose that certain programs do not, in fact, have the programmatic or specialized accreditation needed for suggested or cognate professions. Again, this mandate would need to be very broadly applied not only to programs that are specifically advertised as leading to a profession in a licensed career, but also to any programs that are advertised or portrayed as leading to employment in a confusingly similar unlicensed field.

RESPONSE TO QUESTIONS OF SENATOR MERKLEY BY HOLLY K. PETRAEUS

Thank you for the opportunity to respond to your questions regarding accreditation. Unlike others who participated in the roundtable discussion on July 21, I cannot claim to be an expert on the intricacies of higher education regulation. Moreover, the matters you inquire about are largely outside the primary focus of the Consumer Financial Protection Bureau (CFPB), as they do not relate directly to consumer financial products or services. However, the three questions you raise are critical to servicemembers and their families, and related to their informed choice and use of student loans.

Your first question relates generally to accreditation and communication of accreditation. Since joining the CFPB as the head of the Office of Servicemember Affairs, I have heard from a number of servicemembers concerning their disappointment and frustration with certain educational institutions that recruit heavily in the military community. Nearly all of these schools have some sort of accreditation, and the servicemember thus assumes that a reliable and impartial third party has validated the program's quality, only to find out later that the program has serious deficiencies. These experiences have informed my views on your first question. Although it's certainly important for schools to communicate accreditation status to prospective students, additional information (e.g., whether credits earned are transferable to other institutions) can often help prospective students determine whether or not a program is appropriate for them.

Regarding your second question on the role of State licensing boards, my prior experiences also have informed my views. State licensing boards can play an important role in communicating their requirements for licensure. One step such entities could take that would be particularly helpful to servicemembers would be to have requirements for licensure prominently displayed on their Web sites, together with information about what specific training programs are accepted by that State licensing board. Such easily accessible and clearly stated information is vitally necessary to military personnel and their family members, who move continually across State lines and may well be coming from a different State, or even overseas. (I am a prime example, having moved 24 times during my husband's 37 years in the Army!) Because of these geographical considerations, military family members must do much of their research online. If the pertinent information is not readily available, they may find out too late that they have enrolled in a training program that does not qualify them to take a particular State licensing exam.

Your third question—on the best way for students to receive sufficient disclosure on accreditation status—is of particular interest to the Consumer Financial Protection Bureau. Creating useful disclosures (and not excessive fine print) is good for responsible providers and good for consumers. This is a central goal of the CFPB, and we are already working hard to achieve this goal in the realm of consumer financial products and services. For example, we have already engaged the public in our work to combine two complicated mortgage disclosure forms into a single, simpler form that will both help prospective homeowners make better decisions and reduce burden on industry. While disclosures about a school's accreditation status and related matters is not a topic within the CFPB's focus on consumer financial products or services, I believe that useful, easy-to-understand disclosures would provide value both to servicemembers and to the student population writ large.

Thank you again for the opportunity to participate in the roundtable discussion, and to provide this additional information. The CFPB's Office of Servicemember Affairs and Office of Students will continue to focus our efforts on ensuring that servicemembers and students have the information they need to make smart choices about consumer financial products and services, including the student loans they use to pursue their dream of higher education.

RESPONSE TO QUESTIONS OF SENATOR MERKLEY BY ROBERT SHIREMAN

An issue which has been brought to the forefront at several of the HELP Committee hearings is programmatic or "specialized" accreditation, and who is responsible for informing a student about a particular program's status.

There is no doubt that a contributing factor to the failure of some students to complete their education and in many cases having high default rates is that they find out too late that the program they are enrolled in doesn't have the necessary specialized or programmatic accreditation. However, it is important to point out that programmatic accreditation is not available for many academic programs, including many online programs.

On May 20, I sent a letter to the Department of Education urging that they consider review of the false certification regulations as part of the upcoming negotiated rulemaking process. It is my view that expanding the false certification discharge

provisions of the Higher Education Act would protect students from incurring student loan debt for enrolling in programs that are title IV-eligible and accredited by a primary accrediting agency, but that are not recognized by a programmatic accrediting body. This would encourage institutions to correctly represent their programs from the outset, rather than force students like Yasmine Issa (who testified at the June 24, 2011 HELP Committee hearing) to try and decipher through the complicated maze of institutional vs. programmatic accreditation or find out too late that the program they are enrolled in doesn't have programmatic accreditation, if available.

The Department has issued new regulations on misrepresentation, however these rules provide no relief for the borrower/retroactive relief for someone in Yasmine's situation.

Questions 1. I would like to ask the panelists for their thoughts on this issue, including the need for schools to clearly communicate the accreditation status of individual programs to potential students before they enroll, and whether taxpayers should be subsidizing programs that do not have the requisite programmatic accreditation.

Answer 1. If a profession requires licensing, and a student is entering a program aimed at that profession, then the school absolutely has a responsibility to aggressively and prominently warn the student if the program does not qualify the student to take the licensure examination. However, I would be careful about going too far in having the government highlight or endorse programmatic accreditation in other situations. By definition, accreditation is always an effort to create barriers of entry in a field, but it is only sometimes an important element in ensuring quality. Putting government power behind programmatic accreditation skews the market test of the value of the accreditation, creating an excessive barrier-to-entry and/or leading to an inadequate measure of quality.

DEVRY, INC.,
DOWNERS GROVE, IL,
August 4, 2011.

Hon. TOM HARKIN, *Chairman,*
Committee on Health, Education, Labor, and Pensions,
428 Dirksen Senate Office Building,
Washington, DC 20510.

DEAR CHAIRMAN HARKIN: Thank you again for inviting me to participate in the Senate Committee on Health, Education, Labor, and Pensions forum on "Improving For-Profit Higher Education: A Roundtable Discussion of Policy Solutions." I believe we had a productive discussion and made progress toward addressing issues facing higher education.

I would like to elaborate on some of the topics addressed at the forum, specifically comments on the percentage of government loans taken out by private-sector college students, the perceived lack of oversight of higher education, the 90/10 requirement, and DeVry's marketing spend as a percentage of revenue, and the cost of a private-sector education.

PERCENTAGE OF STUDENTS TAKING OUT FEDERAL LOANS

During the roundtable, Mr. Cruz stated that "94 percent of the students enrolled in for-profits take out Stafford Loans." Students at private-sector schools rely heavily on Federal student loans because they are typically independent and have no family financial support. In fact, I would argue that the sign of a good financial aid office at any college or university is its ability to help students find the best financing possible. Typically, that means Federal student loans and grants. This is a positive benefit to students—both financially and for their chances to graduate. One need only look at FAFSA completion rates to see the positive impact on students.

Private-sector colleges and universities, including those at DeVry, are typically very proficient at helping students complete their FAFSA form. Financial aid expert Mark Kantrowitz states in his October 14, 2009 study, "FAFSA Completion Rates by Level and Control of Institution"¹ that 95.4 percent of students at "for-profit" colleges and universities complete their FAFSA form, compared to 71.7 percent and 52.1 percent of students at private non-profit and public schools, respectively. We would be more than willing to share best practices in this regard.

¹ <http://www.finaid.org/educators/20091014afsacompletion.pdf>.

And Kantrowitz points out another, even more significant benefit to these high FAFSA completion rates: they are directly correlated to increased *graduation* rates. He states that if public colleges would increase their FAFSA completion rate to the level of “for-profit” schools, “public colleges could potentially increase 6-year graduation rates by as much as 5.2 percent and Bachelor’s degree attainment rates by as much as 4.3 percent.”²

That’s an astonishing potential improvement in graduation rates for what is purely an administrative, non-academic task. Kantrowitz goes on to state that the increase in graduation rates would translate to an increase in Associate’s degrees “by more than 200,000 per year and the number of students graduating with Bachelor’s degrees by more than 50,000 per year.”³ Those numbers would go a long way toward helping us reach the President’s college attainment goals.

LACK OF OVERSIGHT

Mr. Nassirian commented during our panel on a “complete lack of oversight” of private-sector schools. On the contrary, private-sector education is very highly regulated. In addition to the U.S. Department of Education, State licensure agencies and accrediting bodies, the sector is regulated by other Federal and State agencies including, for DeVry, the SEC. The question is whether the regulation adequately ensures that institutions are effectively delivering a quality product and service that meets the student and taxpayer’s expectations. This is not a question just for the private sector, but for all of higher education. In calling for an increase of 8.2 million college graduates, the President is not just telling us to throw open our doors and add more seats. He is telling us we need to first offer programs and services that meet the needs of the un-enrolled, and second, do a better job at seeing them through to graduation.

The Triad, consisting of the Department of Education, State licensing entities and accrediting bodies, needs to work effectively and cohesively to enable this expansion while at the same time being able to better measure individual institutional performance towards those goals. While none of these entities operates in a silo, they each bring different strengths and responsibilities to the table. They each must be accountable to increasing the level of execution of their own responsibilities. For example, if it is the State’s role to ensure that institutions are responsive to student consumers, then they need to have a rapid response process that assures complaints are not only resolved for an individual student, but that the institution “learns” from the resolution and will advance its product and services as a result. The Department currently has the authority to spearhead this effort within its existing enforcement authority. It also has the authority and resources to gather and report on meaningful qualitative results.

Similarly, the Federal Negotiated Rulemaking process provides a meaningful opportunity for community input and serves as an integral part of engaging not only the Triad but the higher education community at large. As members of this community, DeVry staff has served as Federal trainers, chairmen of Department of Education (USED) task forces, on the National Academy Foundation student aid research projects, on USED focus groups to simplify student aid and the steering committee of NCES’s National Postsecondary Education Cooperative which promotes better data for better decisionmaking. We have also participated on boards and as members of associations including the American Council of Education, The College Board, and the National Association of Student Financial Aid Administrators and the National Student Loan Clearinghouse. Most recently DeVry staff served as negotiators in negotiated rulemaking and has provided recommended regulatory language to USED aimed at strengthening student disclosures. DeVry has and will continue to engage with members of Congress on ways to improve educational opportunity and success for all students.

90/10

Several comments were offered during the roundtable relative to the private sector’s reliance on Federal funding, the 90/10 requirement, the sufficiency of that requirement, and the historical purpose for that requirement. As Mr. Shireman explained, the 90/10 requirement (then 85/15) was established as a proxy for an independent valuation of an institution’s quality. That is, if 15 percent of an institution’s revenue was derived from some other source, the Federal Government could rely on the derivation as an indicator that someone else had “inspected” the institution and found it of merit.

² Ibid.

³ Ibid.

This requirement is problematic on two fronts. First, it has outlived its usefulness. The use of a proxy makes sense only when the use of actual data is either impossible or impractical. That is not the case in measuring institutional quality. The need for a third party validation of an institution's merit has been replaced with an ability to measure institutional outcomes. At the time the law was enacted, we were not able to measure outcomes on a mass and timely scale. The development of standards and technology has enabled us to do so and we should now replace the use of a proxy with the measurement of actual outcomes as I proposed in my original submission.

The second problem with this requirement is that there is no evidence that it actually relates to institutional quality. The 90/10 ratio is entirely based on inputs—that is, the financial condition of the students an institution serves. Using this proxy, an unaccredited institution would qualify as one of the top institutions in the country. The maximum thresholds are also entirely arbitrary and prejudicial in their application to only one sector. Indeed, many public and independent institutions rely significantly on Federal student aid and other forms of governmental (State) funding for payment of tuition and fees. The different financial structures (for example, only 30 percent of public 4-year operating revenues are derived from tuition and fees) and limitations on what is counted towards the 90 percent requirement mask the comparability among institutions. DeVry University provided more than \$27 million in scholarships last year—almost all of which met the needs of low-income students—that was not included in the 10 percent calculation, despite an analogous scheme that occurs within the discounting policies of many 4-year public and independent institutions. We understand why this rule was initially enacted, but believe it is time to move on to absolute measures of quality—student outcomes.

DEPARTMENT OF DEFENSE TUITION ASSISTANCE AND G.I. BILL

I want to clarify a point offered during our session by Mrs. Petraeus relating to the timing of funding for Tuition Assistance (active duty) versus the G.I. Bill (VA). Mrs. Petraeus indicated that there was likely greater incentive to enroll veterans versus active duty students because institutions had to wait on the funding for active duty students until the end of the term. While I am unaware of the policies under which Mrs. Petraeus made her determination, I wanted you to know that DeVry University generally receives funding for active duty students before it receives funding for veterans. The processing of enrollment certification records in order to fund students typically takes until the 2d month for funding to be released to both the institution and the veteran.

MARKETING

During the roundtable you noted that some private-sector schools may spend “60 to 70 cents” out of every dollar on marketing and “30 to 40 percent” on education. While we cannot speak for other schools’ marketing expenditures, DeVry’s marketing expenditures are much less than the sector-wide statistics you cited.

DeVry Inc. advertising expenses represented 12.3 percent of total revenues versus 45.8 percent for educational services. Advertising expense represents about 14.6 percent and educational services represent about 54.6 percent of total operating costs.

COST TO TAXPAYERS

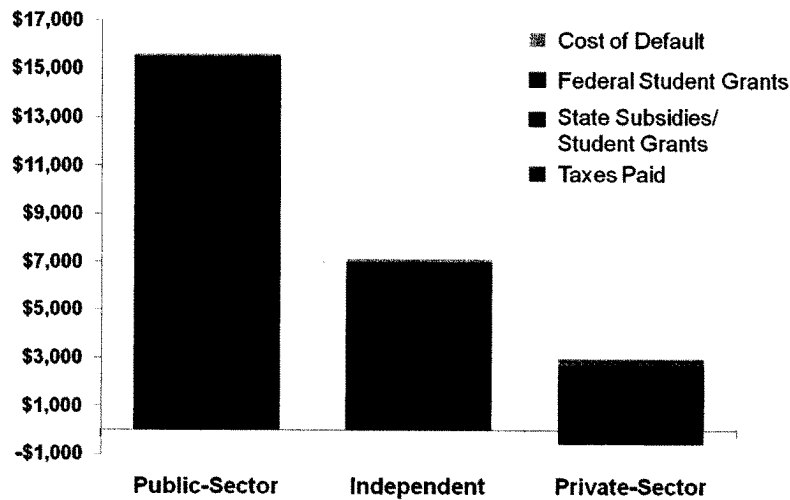
There were several comments about the cost of private-sector education to taxpayers, and I would like to elaborate on the answer I provided at the forum.

Private-sector schools actually cost less than public or independent institutions when one includes the cost to taxpayers. Tuition at a school like DeVry University costs about \$15,000 per academic year. The average tuition of a 4-year public university is about \$7,000. However, public university tuition is highly subsidized by taxpayers. Federal and State subsidies and grants add over \$15,000 to that total, making the true cost for a public university tuition over \$22,000 (see chart below). One can more easily see this true cost when comparing in-state v. out-of-state tuitions. For example, the University of Illinois charges \$13,000 for in-state tuition, \$27,000 for out-of-state.

It is important to keep these numbers in mind when thinking of our future educational capacity needs. The President has called for an additional 8.2 million post-secondary degrees by 2020. Public sector schools, constrained by State budget shortfalls, cannot meet that goal alone. The private sector can add capacity without taxpayer subsidies and at less cost than public or independent schools.

Cost to Taxpayers

Net Cost per Student



See Exhibit 1, Slides and Handout, Chapter 1, September 2019

Thank you again for the opportunity to discuss ways in which we can together improve higher education opportunities for our students. I look forward to working with you and the rest of the committee as your efforts continue this fall.

Sincerely,

DANIEL HAMBURGER,
President and CEO, DeVry, Inc.

[Whereupon, at 4:57 p.m., the hearing was adjourned.]